



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

KATHLEEN K. WEST, Administrative Code Editor
STEPHANIE A. HOFF, Deputy Editor

Telephone: (515)281-3355
(515)281-8157
Fax: (515)281-5534

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

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SUBMISSION DEADLINE

Friday, December 1, 2006

Wednesday, December 13, 2006

Wednesday, December 27, 2006

ISSUE DATE

December 20, 2006

January 3, 2007

January 17, 2007

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

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Attn: Nicole Navara
Legislative Services Agency
Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, December 12, 2006, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Motor vehicle fuel and antifreeze tests and standards, 85.33,

Notice **ARC 5569B**, also Filed Emergency **ARC 5570B** 11/22/06

CITY FINANCE COMMITTEE[545]

MANAGEMENT DEPARTMENT[541]"umbrella"

Definitions of employee benefits, 4.1, 4.3, Filed **ARC 5541B** 11/22/06

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; registration; continuing education; dental assistant radiography;

board referral to practitioner review committee, 1.1, 11.6(2)"h" to "m,"

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28.9(1), 29.11, 29.11(2), 35.1(8)"e," 35.2, Notice **ARC 5568B** 11/22/06

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Iowa wine and beer promotion grant program, 104.3(1), Filed **ARC 5542B** 11/22/06

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Practitioner licensing and endorsements, 14.106, 14.140, 14.140(5), 14.140(6),

14.140(8), 14.140(9), 14.141, Filed **ARC 5520B** 11/8/06

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Extension of administrative licenses, 20.57, Filed **ARC 5519B** 11/8/06

HUMAN SERVICES DEPARTMENT[441]

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Food assistance program—collecting and reporting of data on race and ethnicity,

65.3, Notice **ARC 5551B** 11/22/06

Premiums for Medicaid for employed people with disabilities coverage group,

75.1(39)"b"(1), Filed **ARC 5537B** 11/8/06

Remedial services—new covered service under Medicaid, 77.12, 78.12, 78.42, 78.48(5),

79.1(2), 79.1(23), 88.65(6), Filed Emergency After Notice **ARC 5514B** 11/8/06

Medicaid coverage for smoking cessation drugs, 78.1(2)"a"(2)"4,"

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Child welfare—remedial services, 156.1, 156.6(4)"a," "d" to "f" and "h," 156.7(3),

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Child care assistance program, 170.2(2)"a," 170.3(1)"d," 170.3(5),

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INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Unfair trade practices—limitations on gifts and loans, disclosure of HIV test results,

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Insurance rate and form filing procedures; surplus lines requirements,

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Preferred mortality tables for use in determining minimum reserve liabilities, ch 94, Notice **ARC 5550B** 11/22/06

IOWA FINANCE AUTHORITY[265]

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WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

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COMMERCE DEPARTMENT[181]"umbrella"

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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State building code—inspector qualifications, 300.5(4), <u>Notice</u> ARC 5561B , also <u>Filed Without Notice</u> ARC 5560B	11/22/06
State historic building code, 350.1, <u>Filed</u> ARC 5547B	11/22/06
Manufactured or mobile home retailers, manufacturers and distributors, ch 372, <u>Filed</u> ARC 5543B	11/22/06

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Property assessment, 71.1(1), 71.3, 71.26, 80.3(10), <u>Notice</u> ARC 5545B	11/22/06
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COMMERCE DEPARTMENT[181]“umbrella”

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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
21884 483rd Lane
Chariton, Iowa 50049

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-5995

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
P.O. Box 140
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

Sonya Streit
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
DENTAL EXAMINERS BOARD[650]		
Licensing, amendments to chs 1, 11, 13 to 15, 20, 22, 25, 27 to 29, 35 IAB 11/22/06 ARC 5568B	Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	December 12, 2006 10 a.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Renewal of initial administrator license, 17.13 IAB 11/8/06 ARC 5518B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 28, 2006 1 p.m.
INSURANCE DIVISION[191]		
Preferred mortality tables for use in determining minimum reserve liabilities, ch 94 IAB 11/22/06 ARC 5550B	330 Maple St. Des Moines, Iowa	December 13, 2006 10 a.m.
LABOR SERVICES DIVISION[875]		
Safety rules for amusement rides, devices and concession booths, 61.1(1), 62.2(9) IAB 11/8/06 ARC 5534B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	November 28, 2006 9 a.m. (If requested)
MEDICAL EXAMINERS BOARD[653]		
Specialty board certification, 9.1, 10.1, 11.1, 11.2(2) IAB 11/8/06 ARC 5513B	Conference Room, Suite C 400 S.W. 8th St., Des Moines, Iowa	November 28, 2006 3 p.m.
Passing score for Internet-based test of English proficiency, 10.4(3), 17.4(1) IAB 11/8/06 ARC 5512B	Conference Room, Suite C 400 S.W. 8th St., Des Moines, Iowa	November 28, 2006 3 p.m.
Grounds for discipline, 23.1(37) IAB 11/8/06 ARC 5511B	Conference Room, Suite C 400 S.W. 8th St., Des Moines, Iowa	November 28, 2006 3 p.m.
NATURAL RESOURCE COMMISSION[571]		
Docks and other structures on public waters, ch 16 IAB 11/8/06 ARC 5532B	City Hall Community Rm. 15 North 6th St. Clear Lake, Iowa	November 28, 2006 7 p.m.
	Spirit Lake Community Center 1602 15th St. Spirit Lake, Iowa	November 29, 2006 7 p.m.
	Auditorium Wallace State Office Bldg. Des Moines, Iowa	November 30, 2006 7 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences— continuing education, 64.2(1) IAB 11/22/06 ARC 5546B	5th Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	December 12, 2006 9 to 9:30 a.m.
Optometrists—licensure and continuing education, 180.5(5), 181.2(1), 181.3(2) IAB 11/8/06 ARC 5517B	5th Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	November 28, 2006 9 to 9:30 a.m.
Physician assistants—licensure and supervision, 326.3(2), 326.3(7), 326.8(1), 326.8(4) IAB 11/8/06 ARC 5522B	5th Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	November 28, 2006 9:30 to 10:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Prescription drug donation repository program, ch 109 IAB 11/22/06 ARC 5563B	Room 523 Lucas State Office Bldg. Des Moines, Iowa	December 12, 2006 10 to 11 a.m.
Public health response teams, ch 113 IAB 11/22/06 ARC 5565B	Room 518 Lucas State Office Bldg. Des Moines, Iowa	December 12, 2006 1 to 2 p.m.

PUBLIC SAFETY DEPARTMENT[661]

State building code, 300.5(4) IAB 11/22/06 ARC 5561B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	December 12, 2006 10 a.m.
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STATE PUBLIC DEFENDER[493]

Claims procedures—indigent defense and juvenile cases, amendments to chs 7, 12, 13 IAB 11/8/06 ARC 5540B	Conference Room 424 Lucas State Office Bldg. Des Moines, Iowa	November 30, 2006 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Annual oversize/overweight permit, 511.5(2) IAB 11/8/06 ARC 5509B	DOT Conf. Rm., Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	November 30, 2006 10 a.m. (If requested)
Public transit infrastructure grant program, ch 924 IAB 11/8/06 ARC 5523B	Modal Conference Room 800 Lincoln Way Ames, Iowa	December 1, 2006 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 5569B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 159.5(11) and 214A.2 and 2006 Iowa Acts, House File 2754, section 6, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

The proposed amendment amends rule 21—85.33(214A, 208A) which sets standards for motor fuel and antifreeze to be used or sold in Iowa. The proposed amendment updates the references to uniform industry standards as mandated by Iowa Code section 214A.2.

Any interested persons may make written comments or suggestions on this proposed amendment before 4:30 p.m. on December 12, 2006. Such written materials should be directed to Ron Rowland, Director, Consumer Protection and Animal Health Division, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or faxed to (515)281-4282. E-mail comments may be sent to Ron.Rowland@idals.state.ia.us.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 5570B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

No waiver provision is included in this amendment. The Department has a general rule that allows for waivers in appropriate cases.

This amendment is intended to implement Iowa Code chapter 214A and 2006 Iowa Acts, House File 2754.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 5568B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 13, “Special Licenses,” Chapter 14, “Renewal,” Chapter 15, “Fees,” Chapter 20, “Dental Assistants,” Chapter 22,

“Dental Assistant Radiography Qualification,” Chapter 25, “Continuing Education,” Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Chapter 28, “Designation of Specialty,” Chapter 29, “Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia,” and Chapter 35, “Iowa Practitioner Review Committee,” Iowa Administrative Code.

The proposed amendments make the following changes:

Item 1 clarifies that a person with a lapsed license, permit, or registration continues to hold the privilege of licensure, but may not practice until the license, permit, or registration is reinstated. Item 2 eliminates a provision that requires an applicant for dental hygiene licensure by credentials to establish that the state from which the applicant comes also grants licensure by credentials to Iowa applicants. A similar provision for dentists was eliminated several years ago.

Items 3, 6, 7, 10, 12, 13, 17 and 18 change the renewal term of licenses, registrations, and permits. Previously, licenses, permits, and registrations expired at the end of June. Licenses, permits, or registrations will now expire on August 31. All licenses, permits, and registrations will be granted an automatic two-month extension. The late renewal period and continuing education compliance period have also been changed accordingly. The change in the renewal term will allow the Board to receive revenue at the beginning of the fiscal year and then plan expenditures accordingly. In accordance with 2006 Iowa Acts, House File 2748, the Board will no longer receive an appropriation and must ensure sufficient revenue is available to cover expenditures.

Item 4 specifies the application requirements for faculty permit holders. Item 5 requires applicants for a temporary permit to have at least three years of active practice in another state. This will ensure that applicants have a positive practice history prior to providing services in Iowa.

Item 8 clarifies the fee required for reinstatement of a lapsed license or registration. Item 9 establishes the license, permit, and renewal fees. The fees remain the same. Item 10 strikes “78GA, ch1002” from the parenthetical implementation statute for rules 650—20.1(153, 78GA, ch1002) to 650—20.12(153, 78GA, ch1002) and eliminates a typographical error that refers to dental radiography as an extraoral service. Item 11 clarifies that a dental assistant may provide dental radiography with the direct supervision of a dentist.

Item 14 sets a maximum number of hours required for reinstatement of an inactive practitioner. The number of hours is consistent with the maximum number of hours required to reinstate a lapsed license. Item 15 corrects an Iowa Code reference that has changed. Item 16 corrects the definition of the prosthodontics dental specialty.

Item 19 clarifies that the Iowa Practitioner Review Committee (IPRC) may disclose a practitioner’s participation in the program if the practitioner is referred to the Board for noncompliance. In addition, Item 19 allows the Board to refer a practitioner who is the subject of a Board order to the IPRC for monitoring by the IPRC.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, fees are not subject to waiver pursuant to 650—15.9(17A, 147, 153, 272C).

Any interested person may make written comments or suggestions on the proposed amendments on or before December 12, 2006. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on December 12, 2006, beginning at 10 a.m. in the Board Conference Room, 400

DENTAL EXAMINERS BOARD[650](cont'd)

SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the October 24, 2006, regular meeting of the Board of Dental Examiners. The Board of Dental Examiners ratified the recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes that affect dental hygienists.

These amendments are intended to implement Iowa Code chapters 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **650—1.1(153)**, definition of a "lapsed license or registration," as follows:

"Lapsed license," "permit," or "registration" means a license, *permit*, or registration that a person has failed to renew as required or the license, *permit*, or registration of a person who failed to meet stated obligations for renewal within a stated time. *A person whose license, permit, or registration has lapsed continues to hold the privilege of licensure or registration in Iowa, but may not practice dentistry, dental hygiene, or dental assisting until the license, permit, or registration is reinstated.*

ITEM 2. Rescind subrule **11.6(2)**, paragraph "h," and reletter paragraphs "i" through "m" as "h" through "l."

ITEM 3. Amend subrule 11.7(2) as follows:

11.7(2) Permit renewal. Prior to June 30, 2006, the permit shall expire on June 30 of every even-numbered year. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the permit shall expire on June 30, 2007. *A permit due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007.* After ~~June~~ August 30, 2007, the permit shall expire on ~~June 30~~ August 31 of every odd-numbered year. To renew the permit, the dental hygienist must:

ITEM 4. Amend rule 650—13.2(153) as follows:

Amend subrule **13.2(2)** as follows:

Add ~~new~~ paragraphs "d" to "g" as follows:

d. If the applicant is licensed by another jurisdiction, the applicant shall furnish certification from the board of dental examiners of that jurisdiction that the applicant is licensed in good standing and has not been the subject of final or pending disciplinary action.

e. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

f. A photograph of the applicant suitable for positive identification.

g. Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

Reletter existing paragraphs "d" and "e" as "h" and "i" and amend relettered paragraph "i" as follows:

d h. Such additional information as the board may deem necessary to enable it to determine the character, education or experience of such applicant.

e i. Applications must be signed and ~~verified~~ *notarized* as to the truth of the statements contained therein and include required credentials and documents, and all questions must be completely answered.

Amend subrule 13.2(3) as follows:

13.2(3) A faculty permit shall expire on ~~June 30~~ August 31 of every even-numbered year and may, at the sole discretion of the board, be renewed on a biennial basis. *Prior to June 30, 2006, a faculty permit expired on June 30 of every even-numbered year. A faculty permit due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008.*

ITEM 5. Amend subrule **13.3(2)**, paragraph "e," as follows:

e. ~~Evidence that the applicant holds an active, permanent license to practice in at least one United States jurisdiction and that no formal disciplinary action is pending or has ever been taken. Certification from the state board of dentistry, or equivalent authority, from a state in which the applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board. The applicant must also provide evidence that the applicant has not been the subject of final or pending disciplinary action.~~

ITEM 6. Amend rule 650—14.1(147,153,272C), introductory paragraph, as follows:

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. ~~Dental~~ *Prior to July 1, 2008, dental licenses expire expired on June 30 of every even-numbered year. A dental license due to expire on June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, dental licenses expire on August 31 of every even-numbered year.* Prior to July 1, 2006, dental hygiene licenses ~~expire~~ *expired* on June 30 of every even-numbered year. However, for the renewal period beginning July 1, 2006, a dental hygiene license expires on June 30, 2007. *A dental hygiene license due to expire on June 30, 2007, shall be automatically extended until August 30, 2007, and expire August 31, 2007.* Beginning July 1, 2007, dental hygiene licenses expire on ~~June 30~~ August 31 of every odd-numbered year. The board will notify each licensee by mail of the expiration of the license.

ITEM 7. Amend rule 650—14.4(147,153,272C) as follows:

650—14.4(147,153,272C) Late fee. Failure to renew the license prior to ~~July~~ September 1 following expiration shall result in a late fee of \$100 being assessed by the board in addition to the renewal fee. Failure to renew prior to ~~August~~ October 1 following expiration shall result in a late fee of \$150 being assessed.

14.4(1) No change.

14.4(2) Failure of a licensee to renew a license prior to ~~September~~ November 1 following its expiration shall cause the license to lapse and become invalid. A licensee whose license has lapsed and become invalid is prohibited from the practice of dentistry or dental hygiene until the license is reinstated in accordance with rule 14.5(153).

This rule is intended to implement Iowa Code sections 147.10, 147.11, 153.30 and 272C.2.

DENTAL EXAMINERS BOARD[650](cont'd)

ITEM 8. Amend subrule **14.5(1)**, paragraph “e,” as follows:

e. Payment of all renewal fees and penalties past due, not to exceed \$750, plus the reinstatement fee as specified in 650—Chapter 15.

ITEM 9. Amend rule 650—15.2(153) as follows:

650—15.2(153) Renewal fees. All fees are nonrefundable.

15.2(1) The fee for renewal of a license to practice dentistry for a biennial period is \$240 for an active practitioner and \$240 for an inactive practitioner. For the renewal period beginning July 1, 2006, and ending June 30, 2008, the fee for renewal of a license to practice dentistry for a biennial period is \$315 for an active practitioner and \$315 for an inactive practitioner.

15.2(2) The fee for renewal of a license to practice dental hygiene for a biennial period is \$120 for an active practitioner and \$120 for an inactive practitioner. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the fee for renewal of a license to practice dental hygiene for one year is \$60 for an active practitioner and \$60 for an inactive practitioner. For the renewal period beginning July 1, 2007, and ending June 30, 2009, the fee for renewal of a license to practice dental hygiene for a biennial period is \$150 for an active practitioner and \$150 for an inactive practitioner.

15.2(3) The fee for renewal of a general anesthesia permit is \$100. For the renewal period beginning July 1, 2006, and ending June 30, 2008, the fee for renewal of a general anesthesia permit is \$125.

15.2(4) The fee for renewal of a conscious sedation permit is \$100. For the renewal period beginning July 1, 2006, and ending June 30, 2008, the fee for renewal of a conscious sedation permit is \$125.

15.2(5) The fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is \$20. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is \$10. For the renewal period beginning July 1, 2007, and ending June 30, 2009, the fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is \$25.

15.2(6) The fee for renewal of registration as a registered dental assistant is \$60. For the renewal period beginning July 1, 2007, and ending June 30, 2009, the fee for renewal of registration as a registered dental assistant is \$75.

15.2(7) Beginning July 1, 2002, the fee for renewal of a certificate of qualification in dental radiography is \$30. For the renewal beginning July 1, 2007, and ending June 30, 2009, the fee for renewal of a certificate of qualification in dental radiography is \$40.

15.2(8) The fee for renewal of a faculty permit is \$240. For the renewal period beginning July 1, 2006, and ending June 30, 2008, the fee for renewal of a faculty permit is \$315.

15.2(9) No change.

ITEM 10. Amend **650—Chapter 20** as follows:

Amend rules **650—20.1(153,78GA,ch1002)** to **650—20.12(153,78GA,ch1002)** by striking “78GA,ch1002” from the parenthetical implementation statute.

Amend rule **650—20.2(153)**, definition of “dental assistant,” as follows:

“Dental assistant” means any person who, under the supervision of a dentist, performs any extraoral services including infection control, dental radiography, or the use of hazardous materials or performs any intraoral services on patients. The term “dental assistant” does not include persons otherwise actively licensed in Iowa to practice dental hy-

giene or nursing who are engaged in the practice of said profession.

Amend rule 650—20.11(153), introductory paragraph, as follows:

650—20.11(153) Renewal of registration. A certificate of registration as a registered dental assistant must be renewed biennially. *Prior to June 30, 2007, registration expired on June 30 of every odd-numbered year. A registration due to expire on June 30, 2007, shall be automatically extended until August 30, 2007. Beginning July 1, 2007, registration expires on August 31 of every odd-numbered year.*

Amend subrule 20.11(4) as follows:

20.11(4) Failure to renew the registration by June 30 prior to September 1 shall result in assessment of a late fee of \$20 in addition to the renewal fee. Failure to renew by July 30 prior to October 1 shall result in assessment of a late fee of \$40. Failure to renew a registration prior to September November 1 following expiration shall cause the registration to lapse and become invalid. A registrant whose registration has lapsed and become invalid is prohibited from practicing as a dental assistant until the registration is reinstated in accordance with 650—14.5(147,153,272C).

Amend the implementation sentence as follows:

These rules are intended to implement Iowa Code chapter 153 and 2000 Iowa Acts, chapter 4002.

ITEM 11. Amend rule 650—22.1(136C,153) as follows:

650—22.1(136C,153) Qualification required. A dental assistant shall not participate in dental radiography unless the assistant holds a current registration certificate and active radiography qualification issued by the board, *and a dentist provides direct supervision.*

ITEM 12. Amend rule 650—22.6(136C,153), introductory paragraph, and subrule 22.6(5) as follows:

650—22.6(136C,153) Renewal requirements. The dental assistant radiography qualification shall be renewed biennially at the time of registration renewal. *The Prior to July 1, 2007, the radiography qualification shall expire expired on June 30 of every odd-numbered year. A radiography qualification due to expire on June 30, 2007, shall be automatically extended until August 30, 2007. Beginning July 1, 2007, the radiography qualification shall expire August 31 of every odd-numbered year.*

22.6(5) Failure to renew prior to September November 1 following expiration shall cause the radiography qualification to lapse and become invalid. A dental assistant whose radiography qualification is lapsed is prohibited from engaging in dental radiography until the qualification is reinstated in accordance with 650—22.7(136C,153).

ITEM 13. Amend subrules 25.2(1) and 25.2(2) as follows:

25.2(1) Each person licensed to practice dentistry or dental hygiene in this state shall complete during the biennium renewal period a minimum of 30 hours of continuing education approved by the board. However, for the dental hygiene renewal period beginning July 1, 2006, and ending June August 30, 2007, a dental hygienist shall complete a minimum of 12 hours of continuing education approved by the board.

25.2(2) The continuing education compliance period shall be the 24-month period commencing July September 1 and ending on June August 31 of the renewal cycle. However, for the dental hygiene renewal period beginning July 1, 2006, and ending June August 30, 2007, the continuing education compliance period for dental hygienists shall be the 12 14-month period commencing July 1, 2006, and ending June

DENTAL EXAMINERS BOARD[650](cont'd)

August 30, 2007. For the dental assistant renewal period beginning July 1, 2005, and ending August 30, 2007, the continuing education compliance period for dental assistants shall be the previous 26-month period. For the dental license renewal period beginning July 1, 2006, and ending August 30, 2008, the continuing education compliance period for dentists shall be the previous 26-month period.

ITEM 14. Amend subrule **25.9(2)**, paragraph “b,” as follows:

b. Completion of a total number of hours of accredited continuing education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for a dentist or dental hygienist, *up to a maximum of 75 hours for a dentist or dental hygienist*, or by multiplying 10 by the number of years a certificate of exemption shall have been in effect for a dental assistant, *up to a maximum of 50 hours for a dental assistant*; or

ITEM 15. Amend subrule 27.9(3) as follows:

27.9(3) A licensee or registrant determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel as defined *specified in Iowa Code section 139C.1 139A.22*, established by the Iowa department of public health ~~under subsection 139C.2(3)~~, or if the licensee or registrant works in a hospital setting, the licensee or registrant may elect either the expert review panel established by the hospital or the expert review panel established by the Iowa department of public health for the purpose of making a determination of the circumstances under which the licensee or registrant may perform exposure-prone procedures. The licensee or registrant shall comply with the recommendations of the expert review panel. Failure to do so shall constitute unethical and unprofessional conduct and is grounds for disciplinary action by the board.

ITEM 16. Amend subrule 28.9(1) as follows:

28.9(1) Definition. Prosthodontics is ~~that branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of natural teeth or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes, or both the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth or maxillofacial tissues using biocompatible substitutes.~~

ITEM 17. Amend rule 650—29.11(153), introductory paragraph, as follows:

650—29.11(153) Renewal. A permit to administer deep sedation/general anesthesia or conscious sedation shall be renewed biennially at the time of license renewal. ~~Permits expire Prior to July 1, 2008, permits expired on June 30 of every even-numbered year. A permit due to expire June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, permits expire August 31 of every even-numbered year.~~

ITEM 18. Amend subrule 29.11(2) as follows:

29.11(2) Failure to renew the permit prior to ~~September~~ November 1 following its expiration shall cause the permit to lapse and become invalid for practice.

ITEM 19. Amend **650—Chapter 35** as follows:

Amend subrule **35.1(8)** by adopting new paragraph “e” as follows:

e. If the board initiates disciplinary action against a practitioner for noncompliance with the terms of the contract, the board may include information about the practitioner’s participation in the IPP in the statement of charges, settlement agreement and final order, or order following hearing.

Adopt new rule 650—35.2(272C) as follows:

650—35.2(272C) Board referrals to the Iowa practitioner review committee.

35.2(1) Eligibility for board referral to IPRC. The board may refer a practitioner who is the subject of a board order to the IPRC for monitoring in the following circumstances:

a. The practitioner has an impairment as defined in rule 650—35.1(272C).

b. The board determines that the practitioner is an appropriate candidate for participation in the IPRC.

c. The IPRC determines that the practitioner is an appropriate candidate for participation in the IPRC.

35.2(2) Referral process.

a. Determination of whether a practitioner is appropriate for referral to the IPRC is in the sole discretion of the board. Upon the board’s approval, a referral shall be made to the IPRC and the committee shall be provided with relevant information about the practitioner.

b. The IPRC shall make a determination whether the practitioner is an appropriate candidate for participation in the program. Upon this determination, the IPRC shall offer the referred practitioner a contract that specifies terms of participation in the program. See 650—35.1(272C).

c. If the IPRC finds that the practitioner is not an appropriate candidate for participation in the IPP or if the practitioner fails to sign the contract in the time period specified by the IPRC, the IPRC shall notify the board promptly.

d. When the practitioner signs the contract, the IPRC shall notify the board that the referral has been finalized. The practitioner’s failure to sign a contract within the time period specified by the IPRC may be grounds for disciplinary action.

e. Referral of a practitioner by the board to the IPP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the practitioner shall be subject to the provisions of 650—Chapter 35. Specifically, the practitioner shall be subject to board review and potential formal disciplinary action for noncompliance with the provisions of the IPP contract.

Amend the implementation sentence as follows:

~~This rule is~~ *These rules are* intended to implement Iowa Code section 272C.3“k.”

ARC 5551B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

This proposed amendment implements revised federal regulations regarding the Department’s methods of collecting and reporting data on race and ethnicity of persons receiving benefits from the Food Assistance Program. Changes have been made to the federal Food Stamp regulations to comply with revised data collection standards issued by the Office of Management and Budget.

Under the revised standards, there are five categories for race and two categories for ethnicity. The ethnic categories are “Hispanic or Latino” and “Not Hispanic or Latino.” The racial categories are “American Indian or Alaska Native,” “Asian,” “Black or African American,” “Native Hawaiian or Other Pacific Islander,” and “White.” The revised standards allow persons to choose more than one race to describe themselves.

The Department must include these racial and ethnic categories on its application and data input screens. The application and data input screens must use separate questions for collecting data on ethnicity and race, with ethnicity requested first. Provision of the information is still voluntary on the part of the household. Income maintenance workers will continue to collect the data, to the best of their ability, through observation. If telephone interviews are used, the income maintenance worker may leave the fields for race and ethnicity blank.

This proposed amendment does not provide for waivers in specified situations. The amendment merely adds another option for people to use to describe their race and ethnicity.

Any interested person may make written comments on the proposed amendment on or before December 13, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 234.12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 441—65.3(234) as follows:

441—65.3(234) Administration of program. The food assistance program shall be administered in accordance with the Food Stamp Act of 1977, 7 U.S.C. 2011 et seq., and in accor-

dance with federal regulation, Title 7, Parts 270 through 283 as amended to April 29, 2003 June 19, 2006.

A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Financial, Health, and Work Supports, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, (515)281-3133.

This rule is intended to implement Iowa Code section 234.12.

ARC 5550B**INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 505.8 and 508.36, the Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 94, “Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities,” Iowa Administrative Code.

The purpose of the proposed rules is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities. Iowa Code section 508.36 authorizes the Insurance Commissioner to adopt any mortality table adopted by the National Association of Insurance Commissioners (NAIC). The National Association of Insurance Commissioners adopted the 2001 CSO Preferred Class Structure Mortality Table at its September 2006 national meeting. The rules would allow insurers to substitute the 2001 CSO Preferred Class Structure Mortality Table in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007.

Any interested person may make written suggestions or comments on the proposed rules on or before 4:30 p.m. on December 12, 2006. Such written comments shall be directed to Kim Cross, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319 or may be transmitted via E-mail to kim.cross@iid.state.ia.us or via facsimile to (515) 281-3059.

A public hearing will be held on December 13, 2006, at 10 a.m. in the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Insurance Division and advise of their special needs.

These rules are intended to implement Iowa Code section 508.36.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

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281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 94

PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

191—94.1(508) Purpose. The purpose of this chapter is to recognize, permit and prescribe the use of mortality tables that reflect the differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with Iowa Code section 508.36 and 191—Chapter 47.

191—94.2(508) Definitions. For purposes of this chapter, the following definitions shall apply:

“2001 CSO Mortality Table” means that mortality table consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners in December 2002 and by the Commissioner pursuant to 191 IAC 91. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table. Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. “2001 CSO Mortality Table (F)” means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2. “2001 CSO Mortality Table (M)” means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

“2001 CSO Preferred Class Structure Mortality Table” means mortality tables with separate rates of mortality for super preferred nonsmoker, preferred nonsmoker, residual standard nonsmoker, preferred smoker, and residual standard smoker splits of the 2001 CSO nonsmoker and smoker tables as adopted by the National Association of Insurance Commissioners at the September 2006 national meeting and published in the NAIC Proceedings (3rd Quarter 2006). Unless the context indicates otherwise, the “2001 CSO Preferred Class Structure Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table. It also includes both the smoker and non-smoker mortality tables, both the male and female mortality tables, the gender composite mortality tables, and both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

“Composite mortality tables” means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

“Smoker and nonsmoker mortality tables” means mortality tables with separate rates of mortality for smokers and nonsmokers.

“Statistical agent” means an entity with proven systems for protecting the confidentiality of individual insured and insurer information, with the demonstrated resources for and

a history of ongoing electronic communications and data transfer ensuring data integrity for insurer members or subscribers, and with a history of and the means for aggregation of data and accurate promulgation of experience modifications in a timely manner.

191—94.3(508) 2001 CSO Preferred Class Structure Mortality Table. At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to the conditions stated in this chapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates that at least 20 percent of the business to be valued using this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table for purposes of reserve valuation only, pursuant to the requirements of the National Association of Insurance Commissioners' model regulation, “Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation.”

191—94.4(508) Conditions.

94.4(1) For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

94.4(2) For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death

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benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

94.4(3) Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Mortality Table shall annually file with the commissioner, with the National Association of Insurance Commissioners, or with a statistical agent designated by the National Association of Insurance Commissioners and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this chapter. The form of the reports shall be established by the commissioner, or the commissioner may require the use of a form established by the National Association of Insurance Commissioners or by a statistical agent designated by the National Association of Insurance Commissioners and acceptable to the commissioner.

191—94.5(508) Separability. If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected.

These rules are intended to implement Iowa Code sections 505.8 and 508.36.

ARC 5549B

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 424.1, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 6, “Administration of the Environmental Protection Charge Imposed Upon Petroleum Diminution,” Iowa Administrative Code.

The proposed amendment to rule 591—6.17(424) changes the statute of limitations for claiming a refund of the environmental protection charge from five years to three years and changes the time period for protesting a refund denial from 30 to 60 days.

In accordance with Iowa Code section 424.1(4), the proposed amendment is being filed by the Department of Revenue on behalf of the Board. The rule change is technical in nature, and the Board has granted approval to the Department of Revenue to file this proposed amendment on behalf of the Board.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 26, 2006, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before December 12, 2006. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who wish to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 13, 2006.

This amendment is intended to implement Iowa Code section 424.15.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/LAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 591—6.17(424) as follows:

591—6.17(424) Claim for refund of charge. The charge shall be refunded only to whoever has actually paid the charge. A receiver who has actually paid the charge may designate a depositor who collects the charge as an agent for purposes of receiving a refund of the charge. Any person or persons who claim a refund of the charge shall prepare that claim on a prescribed form furnished by the department. A claim for refund shall be filed with the department within ~~five~~ *three* years after the charge payment upon which the refund is claimed became due or one year after the charge payment was made, whichever time is the later. The claim shall state in detail the reasons why a refund is requested and facts supporting the claim, and, if necessary, include attached documents which support the claim for refund. If the claim for refund is denied and the claimant wishes to protest the denial, that protest is timely if filed no later than ~~30~~ *60* days following the date of the denial.

This rule intended to implement Iowa Code section 424.15.

ARC 5546B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 64, “Continuing Education for Cosmetology Arts and Sciences,” Iowa Administrative Code.

This proposed amendment changes the number of continuing education hours required for license renewal.

Any interested person may make written comments on the proposed amendment no later than December 12, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on December 12, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 157 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 64.2(1) as follows:

64.2(1) The biennial continuing education compliance period shall extend for a period that begins on April 1 of one year and ends on March 31 two years later. All licenses shall be renewed on a biennial basis.

~~Prior to Through April 30, 2006 2007, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 8 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 16 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.~~

~~Beginning April 30 May 1, 2006 2007, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 12 6 hours of board-approved continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline and a minimum of 2 hours shall be in the content area of Iowa cosmetology law and rules and sanitation. Licensees who are instructors of cosmetology arts and sciences shall obtain 20 14 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology~~

~~and a minimum of 2 hours in the content area of Iowa cosmetology law and rules and sanitation.~~

a. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an even-numbered year to March 31 of the next even-numbered year.

b. One-half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an odd-numbered year to March 31 of the next odd-numbered year.

c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. Those licensees living and practicing in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa’s continuing education requirement but shall pay all renewal fees when due.

ARC 5555B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Notification and Surveillance of Reportable Communicable and Infectious Diseases, Poisonings and Conditions,” Iowa Administrative Code.

Item 1 provides for the issuance of investigatory subpoenas to assist in conducting a disease investigation. Item 2 corrects a typographical error and makes paragraph 1.12(4)“f” consistent with paragraph 1.9(3)“f.”

Any interested person may make written suggestions or comments on these proposed amendments on or before December 12, 2006. Such written materials should be directed to Pam Deichmann, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4355.

These amendments are intended to implement Iowa Code section 139A.3 as amended by 2006 Iowa Acts, Senate File 2322.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 641—1.4(135,139A) by adopting ~~new~~ subrule 1.4(5) as follows:

1.4(5) Issuance of investigatory subpoenas.

a. The department may upon the written request of a local board of health, the state epidemiologist or designee, or the deputy state epidemiologist or designee, subpoena records, reports, or any other evidence necessary to conduct a disease investigation. The subpoena shall be signed by the division director of the division of acute disease prevention and emergency response or the division director’s designee

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following review and approval of the written request for subpoena.

b. A written request for a subpoena shall contain the following:

(1) The name and address of the person, facility, or entity to which the subpoena will be directed;

(2) A specific description of the records, reports, or other evidence requested; and

(3) An explanation of why the documents sought to be subpoenaed are necessary for the department to conduct the disease investigation.

c. Each subpoena shall contain:

(1) The name and address of the person, facility, or entity to which the subpoena is directed;

(2) A description of the records, reports, or other evidence requested;

(3) The date, time, and location for production, inspection, or copying;

(4) The time within which a motion to quash or modify the subpoena must be filed;

(5) The signature, address, and telephone number of the division director;

(6) The date of issuance; and

(7) A return of service.

d. Process to challenge a subpoena.

(1) Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within five days after service of the subpoena, or before the time specified for compliance if such time is less than five days, file with the department a motion to quash or modify the subpoena. The motion shall describe the reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

(2) Upon receipt of a timely motion to quash or modify a subpoena, the department may request an administrative judge to issue a decision. Oral argument may be scheduled at the discretion of the administrative law judge. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

(3) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the department by serving on the department director either in person or by certified mail, a notice of appeal within ten days after the service of the decision of the administrative law judge. The department director's decision is final for purposes of judicial review.

e. Subpoenas issued under this subrule and requests, motions, and pleadings related to the issuance of subpoenas are confidential pursuant to Iowa Code section 139A.3 as amended by 2006 Iowa Acts, Senate File 2322, and section 22.7.

ITEM 2. Amend subrule 1.12(4), paragraph "f," as follows:

f. The needs of isolated or quarantined individuals shall be addressed in a *systemic systematic* and competent fashion including, but not limited to, providing adequate food; clothing; shelter; means of communicating with those in and outside of isolation or quarantine; medication; and competent medical care.

ARC 5563B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 135M.4, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 109, "Prescription Drug Donation Repository Program," Iowa Administrative Code.

The purpose of proposed Chapter 109 is to establish the requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies and the eligibility criteria for individuals to receive donated prescription drugs and supplies.

Any interested person may make written comments or suggestions on the proposed rules on or before December 12, 2006. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

Also, there will be a public hearing on December 12, 2006, from 10 to 11 a.m. in Room 523, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These rules are intended to implement Iowa Code Supplement chapter 135M.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 109 PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

641—109.1(135M) Definitions. For purposes of this chapter, the following definitions apply:

"Controlled substance" means the same as defined in Iowa Code section 124.101.

"Department" means the Iowa department of public health.

"Indigent" means a person with an income that is below 200 percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.

"Medical facility" means any of the following:

1. A physician's office.
2. A hospital.

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3. A health clinic.

4. A nonprofit health clinic, including a federally qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B); a rural health clinic as defined in 42 U.S.C. § 1396d(l)(1); and a nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.

5. A free clinic as defined in Iowa Code section 135.24.

6. A charitable organization as defined in Iowa Code section 135.24.

7. A nursing facility as defined in Iowa Code section 135C.1.

“NDC #” means the unique national drug code number that identifies a specific approved drug.

“Pharmacy” means a pharmacy as defined in Iowa Code section 155A.3.

“Physician” means an individual licensed under Iowa Code chapter 148, 150, or 150A.

“Prescription drug” means the same as defined in Iowa Code section 155A.3 and includes cancer drugs and antirejection drugs, but does not include controlled substances.

“Repository” means a pharmacy or medical facility that elects to accept and dispense donated drugs and that meets the eligibility requirements of rule 641—109.3(135M).

“Supplies” means the supplies necessary to administer the prescription drugs donated.

“USP” means the current United States Pharmacopoeia.

641—109.2(135M) Purpose. The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code Supplement chapter 135M relative to the following:

1. Requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies.
2. Eligibility criteria for individuals to receive donated prescription drugs and supplies.

641—109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies.

109.3(1) To be eligible for participation in the prescription drug donation repository program, a medical facility or pharmacy shall be in compliance with all applicable federal and state laws, including laws applicable to the storage and distribution of drugs and the appropriate licensure standards, and shall hold active, nonrestricted, state-issued licenses or registrations in good standing.

109.3(2) Participation in the prescription drug donation repository program is voluntary.

109.3(3) A pharmacy or medical facility may elect to participate in the prescription drug donation repository program by providing, on a form prescribed by the department and available on the program’s Web page, written notification to the department of all of the following:

- a. The name, street address, and telephone number of the pharmacy or medical facility, and any state-issued license or registration number issued to the pharmacy or medical facility, including the name of the issuing agency.
- b. The name and telephone number of the responsible pharmacist, or another contact as determined by the pharmacist, who is employed by or under contract with the pharmacy or medical facility.
- c. A statement, signed and dated by the responsible pharmacist, indicating that the pharmacy or medical facility meets the eligibility requirements under this rule and shall comply with the requirements of this chapter.

109.3(4) Withdrawal from participation. A pharmacy or medical facility may withdraw from participation in the pre-

scription drug donation repository program at any time by providing written notice to the department on a form prescribed by the department and available on the program’s Web page.

641—109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies.

109.4(1) Any individual who is 18 years of age or older may donate legally obtained prescription drugs or supplies to a participating drug repository if the drugs or supplies meet the requirements of this rule, as determined by a pharmacist who is employed by or under contract with a drug repository.

109.4(2) No drugs that require storage temperatures other than normal room temperature as specified by the manufacturer or United States Pharmacopoeia shall be donated or accepted as part of the prescription drug donation repository program. Drugs that require storage temperatures other than normal room temperature as specified by the manufacturer or USP shall not be donated or accepted because of the increased potential for these drugs to become adulterated.

109.4(3) Controlled substances shall not be donated or accepted. Pursuant to federal and state laws, a controlled substance cannot be returned or reused once the drug has been dispensed to a patient.

109.4(4) A repository may accept a prescription drug only if all of the following requirements are met:

- a. The drug is in its original sealed and tamper-evident packaging;
- b. The packaging is unopened except that a drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit-dose packaging is undisturbed;
- c. The drug has been stored according to manufacturer or USP storage requirements;
- d. The packaging contains the lot number and expiration date of the drug;
- e. The drug has an expiration date that is more than six months after the date that the drug was donated;
- f. The drug does not have any physical signs of tampering or adulteration, and there is no reason to believe that the drug is adulterated;
- g. The packaging does not have any physical signs of tampering, misbranding, deterioration, compromised integrity or adulteration; and
- h. The donation is accompanied by a completed prescription drug donation repository donor form that is signed by the person making the donation or that person’s authorized representative.

109.4(5) A repository may accept supplies necessary to administer the prescription drugs donated only if all of the following requirements are met:

- a. The supplies are in their original, unopened, sealed packaging;
- b. The supplies are not adulterated or misbranded; and
- c. The donation is accompanied by a completed prescription drug donation repository donor form that is signed by the person making the donation or that person’s authorized representative.

109.4(6) Drugs and supplies may be donated on the premises of a participating drug repository to a person designated by the repository. A drop box may not be used to deliver or accept donations.

109.4(7) If a person who donates prescription drugs under this program receives a notice from a pharmacy or other reputable source that a prescription drug has been recalled, the

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person shall inform the repository that received the donated drug of the recall.

641—109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies.

109.5(1) A licensed pharmacist employed by or under contract with the repository shall inspect donated prescription drugs and supplies to determine, to the extent reasonably possible in the judgment of the pharmacist, that the drugs and supplies are not adulterated or misbranded, are safe and suitable for dispensing, and are not ineligible drugs or supplies. The pharmacist who inspects the drugs shall sign an inspection record stating the above and attach it to the copy of the donor record provided with the drugs.

109.5(2) Repositories shall store donated drugs and supplies in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory. When donated drugs are not inspected immediately upon receipt, a repository shall quarantine the donated drugs separately from all dispensing stock until the donated drugs have been inspected and approved for dispensing under the program.

109.5(3) Repositories shall destroy donated noncontrolled substances that are not suitable for dispensing and make a record of such destruction. The destruction record is made in the same manner as prescribed for the record of return or destruction of a controlled substance in subrule 109.5(4).

109.5(4) Controlled substances shall not be accepted for donation.

a. Controlled substances submitted for donation shall be documented and returned immediately to the donor or the donor's representative that provided the drugs.

b. In the event that it is not possible or practicable to return the controlled substances to the donor or the donor's representative due to inability to identify the donor or the donor's representative or due to refusal by the donor or the donor's representative to receive them, abandoned controlled substances shall be documented and destroyed beyond reclamation pursuant to rules of the board of pharmacy examiners. Such destruction shall be performed by a pharmacist or other person that has authority to dispense controlled substances and shall be witnessed by another responsible adult employee of the repository.

c. The repository shall prepare and retain a controlled substance donor return or destruction record. The controlled substance donor return or destruction record shall include the following when applicable:

- (1) The name and address of the repository;
- (2) The date the drug was received by the repository;
- (3) The brand name of the drug; or the generic name and either the name of the manufacturer or the NDC # when available;
- (4) The strength and dosage form of the drug;
- (5) The quantity of the drug;
- (6) The lot number of the drug if available;
- (7) The expiration date of the drug;
- (8) The name and address of the donor;
- (9) The name and address of the donor's representative;
- (10) The circumstances under which the drug was abandoned;
- (11) The signature of the donor or the donor's representative when the drug is returned to the donor;
- (12) The signature of the representative of the repository when the drug is returned to the donor;

(13) The signature of the individual performing the destruction of the drug;

(14) The signature of the individual witnessing the destruction of the drug; and

(15) The date the drug was returned or destroyed.

109.5(5) If a repository receives a recall notification, the repository shall perform a uniform destruction of all of the recalled prescription drugs in the repository and complete the destruction information form for all donated drugs destroyed. If a recalled drug has been dispensed, the repository shall immediately notify the recipient of the recalled drug pursuant to established drug recall procedures.

641—109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies.

109.6(1) Donated drugs and supplies may be dispensed only if the drug or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a licensed pharmacist.

109.6(2) A repository shall prioritize dispensing to an individual requesting drugs through the program as follows:

- a. First, to an indigent individual;
- b. Second, to an individual who has no active third-party prescription drug reimbursement coverage for the drug prescribed; and
- c. Third, to any other individual if an indigent or uninsured individual is unavailable.

109.6(3) A repository shall dispense donated prescription drugs in compliance with applicable federal and state laws and regulations for dispensing prescription drugs, including all requirements relating to packaging, labeling, record keeping, drug utilization review, and patient counseling.

109.6(4) A repository shall remove the original donor's identification from the package prior to dispensing the drugs or supplies.

109.6(5) Before donated drugs or supplies may be dispensed to a recipient, the repository shall orally notify the recipient that the drug or supply may have been previously dispensed; and the recipient shall sign a recipient record form which shall include at least the following:

- a. The printed name and address of the recipient;
- b. The signature of the recipient;
- c. The date the form was signed by the recipient;
- d. The brand name of the drug received; or the generic name and either the name of the manufacturer or the NDC #;
- e. The lot number of the drug if available;
- f. The strength and dosage form of the drug received by the recipient;
- g. The quantity of the drug received by the recipient;
- h. The name and address of the dispensing repository; and
- i. The initials of the dispensing pharmacist.

109.6(6) Each recipient of a donated drug from the drug donation repository program, if that donated drug is packaged in single-unit dose or blister packaging, shall sign a waiver of the requirement for child-resistant packaging of the federal Poison Prevention Packaging Act.

109.6(7) A repository shall be responsible for drug recalls and shall have an established mechanism to notify recipients in the event of a drug recall.

109.6(8) Prescription drugs or supplies donated under this program shall not be resold.

109.6(9) Participating repositories may distribute drugs and supplies donated under this program to other participating repositories for use pursuant to the program. The repository distributing the drugs or supplies shall complete a donor form. The completed form and a copy of the donor form that

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was completed by the original donor shall be provided to the receiving repository at the time of distribution, and a copy of each form shall be retained by the distributing repository.

641—109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies.

109.7(1) An individual who requests drugs from the repository program shall certify to the repository that the individual is a resident of Iowa as evidenced by a state-issued photo ID card and meets one or more of the following criteria.

- a. Is indigent;
- b. Has no active third-party prescription drug reimbursement coverage for the drug prescribed.

109.7(2) The repository shall provide each individual recipient with an identification card after the recipient certifies eligibility to receive drugs from the program.

a. The card shall confirm to other repositories that the recipient is eligible to receive drugs from the program.

b. The card shall be prepared in a format obtained from the department of public health and shall contain the following:

- (1) The full name of the recipient;
- (2) The address of the recipient;
- (3) The state-issued ID number, i.e., driver's license number, of the recipient;
- (4) The name of the issuing repository;
- (5) The address and telephone number of the issuing repository;
- (6) The date the card was issued; and
- (7) The expiration date of the card, which shall be no later than 12 months from the date the card was issued.

641—109.8(135M) Forms and record keeping.

109.8(1) The following forms developed for the administration of this program shall be utilized by donors, repositories and recipients and are available on the program's Web page on the department's Web site, www.idph.state.ia.us.

- a. Prescription drug donation repository program notice of participation or withdrawal.
- b. Prescription drug donation repository program donation, transfer or destruction record.
- c. Prescription drug donation repository program recipient record and identification card.

109.8(2) Record-keeping requirements.

a. All records required to be maintained as a part of the prescription drug donation repository program shall be maintained for a minimum of five years by participating pharmacies and medical facilities.

b. Records required as part of the program shall be maintained separately from other records. If the repository's dispensing record system is capable of producing a report identifying all dispensing under the drug donation repository program by patient name, prescriber, drug dispensed, and date, program dispensing records may be maintained with nonprogram dispensing records in a single record system. If the repository's dispensing record system is not capable of producing such a report, all records of drugs or supplies dispensed as part of the program shall be maintained separately from nonprogram dispensing records.

641—109.9(135M) Handling fee. A repository may charge the recipient of a donated drug a handling fee, not to exceed a maximum of 200 percent of the Medicaid professional dispensing fee as established by rule of the department of human services, to cover stocking and dispensing costs. A prescription drug dispensed through the prescription drug donation

repository program shall not be eligible for reimbursement under the medical assistance program.

641—109.10(135M) List of drugs and supplies program will accept. All prescription drugs, excluding controlled substances, that have been approved for medical use in the United States, that are listed in the USP or National Formulary (USP/NF), and that meet the criteria for donation established by these rules may be accepted for donation under the prescription drug donation repository program.

641—109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution.

109.11(1) A drug manufacturer acting reasonably and in good faith is not subject to criminal prosecution or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the drug manufacturer that is donated under this chapter, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

109.11(2) Except as provided in subrule 109.11(3), a person other than a drug manufacturer subject to subrule 109.11(1), acting reasonably and in good faith, is immune from civil liability and criminal prosecution for injury to or the death of an individual to whom a donated prescription drug is dispensed under this chapter and shall be exempt from disciplinary action related to the person's acts or omissions related to the donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter.

109.11(3) The immunity and exemption provided in subrule 109.11(2) does not extend to any of the following:

a. The donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter by a person if the person's acts or omissions are not performed reasonably and in good faith.

b. Acts or omissions outside the scope of the program.

These rules are intended to implement Iowa Code Supplement chapter 135M.

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Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 113, “Public Health Response Teams,” Iowa Administrative Code.

This proposed chapter provides rules for the development and sponsorship of Disaster Medical Assistance Teams and Environmental Health Response Teams. These rules provide teams and team members with general requirements for registration, approval or denial of membership, licensure and educational requirements, team composition and legal protections.

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Any interested person may make written suggestions or comments on this proposed chapter on or before December 12, 2006. Such written materials should be directed to Clark Christensen, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4355.

Also, there will be a public hearing on December 12, 2006, from 1 to 2 p.m. in Room 518, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

These rules are intended to implement Iowa Code section 135.143.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 113:

CHAPTER 113
PUBLIC HEALTH RESPONSE TEAMS

641—113.1(135) Definitions. For purposes of this chapter, the following definitions shall apply:

“Defend” means that the office of the Iowa attorney general shall provide a public health response team member with legal representation at no cost to the public health response team member.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Disaster medical assistance team” or “DMAT” means a public health response team that is sponsored by a sponsor agency and approved by the department to provide medical assistance in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143.

“Environmental health response team” or “EHRT” means a public health response team that is sponsored and approved by the department to provide environmental health expertise and assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

“Epidemiology response team” or “EpiRT” means a public health response team that is sponsored and approved by the department to provide epidemiological assistance in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143.

“Indemnify” means that the state of Iowa shall pay all sums that a public health response team member is legally obligated to pay as damages because of any claim made against the public health response team member which arises out of the provision of direct medical care or other support services rendered or which should have been rendered during a disaster, threatened disaster, or other incident defined in Iowa Code section 135.143, or arising out of a training exercise to prepare for a disaster or other incident defined in Iowa Code section 135.143.

“Physician” means an individual licensed under Iowa Code chapter 148, 150, or 150A.

“Public health response team” or “PHRT” means a team of professionals, including licensed health care providers, non-medical professionals skilled and trained in disaster or emergency response, and public health practitioners, that is spon-

sored by the department, a hospital or other entity and approved by the department to provide assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143. “Public health response team” shall include disaster medical assistance teams, environmental health response teams, epidemiology response teams, and other teams established and approved upon written order of the director, to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources.

“Public health response team member,” “DMAT member,” “EHRT member,” or “EpiRT member” means an individual who has registered with the department and has received approval from the department to serve on a public health response team.

“Registered nurse” or “RN” means an individual licensed pursuant to Iowa Code chapter 152.

“Sponsor agency” means a hospital, public health agency, health care organization, licensed health care entity, or other entity approved by the department to act as a sponsor for a public health response team.

“Sponsor agreement” means a signed agreement between a sponsor agency and the department which defines the terms and conditions under which the agency shall sponsor a public health response team.

641—113.2(135) Purpose.

113.2(1) The department, through the division of acute disease prevention and emergency response, center for disaster operations and response, shall establish, register, and approve public health response teams, including at a minimum five DMATs and one EHRT, to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143. The primary purpose of the public health response teams is to respond to Iowa incidents and to provide support for Iowa medical and public health personnel, hospitals, and resources. A public health response team may also be requested to respond to an out-of-state disaster or emergency pursuant to the Emergency Management Assistance Compact at Iowa Code section 29C.21.

113.2(2) DMAT and EHRT shall be established, registered and approved pursuant to this chapter. Other PHRTs may be established, registered and approved as necessary upon written order of the director.

641—113.3(135) Sponsor agency.

113.3(1) Sponsor agency approval. A hospital or other entity may apply to the department to be a sponsor agency of a public health response team. The applicant shall apply on a form approved by the department and shall provide all information requested by the department. The department may approve an application when the department is satisfied that the sponsor agency will operate the PHRT in compliance with Iowa Code section 135.143 and this chapter. Upon approval of the application, the department and the sponsor agency shall execute a sponsor agreement which shall provide that the agency is registered with the department and has been approved to sponsor a public health response team. The sponsor agreement shall also include the effective date of the approval and the terms and conditions of approval.

113.3(2) Sponsor agency denial and revocation. The department may deny approval to an applicant sponsor agency or may revoke a sponsor agency's approval if the department determines that the sponsor agency has violated or failed to comply with Iowa Code section 135.143 or this chapter, any term or condition contained in the sponsor agreement, any

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operational procedure, or state or federal law. The department shall notify the applicant or sponsor agency of the department's decision in writing by certified mail, return receipt requested. In the event an applicant or a sponsor agency is dissatisfied with the department's decision, the applicant or sponsor agency may submit a request for reconsideration with the division director. Such request shall be delivered by certified mail, return receipt requested, within 20 days of the date of the denial or revocation notification, to Division Director, Division of Acute Disease Prevention and Emergency Response, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. The division director shall review the matter and issue a written decision within 20 days of receipt of the request. The division director's decision shall be final agency action. This appeal process does not constitute a contested case proceeding as defined in Iowa Code chapter 17A.

641—113.4(135) Public health response team members.

113.4(1) Registration and approval. An individual may apply to the department through a sponsor agency to be a public health response team member. The applicant shall apply on a form approved by the department and shall provide all information requested by the department and sponsor agency. The department shall register and approve an individual to serve as a PHRT member when the department is satisfied that the individual satisfies the requirements of this chapter and will perform on a PHRT in compliance with Iowa Code section 135.143 and this chapter. Upon registration and approval of an individual, the department shall provide the individual with written notification that the individual is registered with the department and has been approved to serve on a public health response team. The written notification shall also include the effective date of the approval and the terms and conditions of approval.

113.4(2) Denial and revocation. The department may deny approval to an individual or may revoke an individual's approval if the department determines that the individual has violated or failed to comply with Iowa Code section 135.143 or this chapter, any term or condition contained in the written approval notification from the department, any operational procedure, or state or federal law, or has exposed or may expose the state to undue risk. The department shall notify the individual of the department's decision in writing by certified mail, return receipt requested. In the event an individual is dissatisfied with the department's decision, the individual may submit a request for reconsideration with the division director. Such request shall be delivered by certified mail, return receipt requested, within 20 days of the date of the denial or revocation notification, to Division Director, Division of Acute Disease Prevention and Emergency Response, Lucas State Office Building, 321 E. 12th Street, Des Moines Iowa 50319. The division director shall review the matter and issue a written decision within 20 days of receipt of the request. The division director's decision shall be final agency action. This appeal process does not constitute a contested case proceeding as defined in Iowa Code chapter 17A.

113.4(3) Effect of revocation. If the department revokes a public health response team member's approval, the action shall revoke future eligibility, but shall not negate defense and indemnification coverage or other protection for covered acts or omissions which occurred during the effective date of approval.

641—113.5(135) Disaster medical assistance team.**113.5(1) General requirements.**

a. An entity may make application to the department to be a sponsor agency of a DMAT pursuant to subrule 113.3(1). An individual may make application to the department to be a member of a DMAT pursuant to subrule 113.4(1).

b. The department, in conjunction with the sponsor agencies, shall establish the DMAT operational procedures. The operational procedures shall be in writing and shall be provided to each DMAT member. All DMAT members and sponsor agencies shall follow the DMAT operational procedures as established by the department. The Iowa DMAT Operational Procedures Manual is available through the Iowa Department of Public Health, Center for Disaster Operations and Response, Lucas State Office Building, Des Moines, Iowa 50319-0075.

c. If the department notifies a DMAT, DMAT member, or sponsor agency of a violation of Iowa Code section 135.143, this chapter, or an operational procedure, the DMAT, DMAT member, or sponsor agency shall correct the deficiency or violation identified by the department within a time frame determined by the department. If a DMAT, DMAT member, or sponsor agency fails to correct a deficiency or violation within the time frame identified by the department, or if the deficiency or violation constitutes an immediate danger to the public health, safety, or welfare, the department may initiate action to revoke approval pursuant to subrule 113.3(2) or 113.4(2).

113.5(2) Team composition.

a. A DMAT shall be comprised of a minimum of 35 health care professionals and administrative personnel as identified in the Iowa DMAT Operational Procedures Manual.

b. The sponsor agency for each team shall be responsible for maintaining adequate staffing.

113.5(3) Licensure and educational requirements.

a. Each DMAT member shall hold and maintain an active unrestricted license, registration, or certification to practice in Iowa in the member's respective medical or health care profession.

b. Each DMAT member shall complete the following courses or shall complete other substantially similar courses approved by the department:

- (1) Incident command structure;
- (2) Weapons of mass destruction awareness; and
- (3) Hazardous materials awareness or operations.

c. In addition to the requirements in paragraph 113.5(3)"b," the DMAT's leadership shall complete training in:

- (1) Hospital emergency incident command structure; and
- (2) Risk communication.

d. A sponsor agency shall provide specific position training to DMAT members as determined to be necessary by the sponsor agency and as approved by the department.

e. A sponsor agency, in conjunction with the department, shall develop and implement training exercises to test the team's notification process, deployment readiness, and response capabilities.

f. The sponsor agency shall be responsible for documenting each DMAT member's completion of required training.

113.5(4) Deployment and standdown.

a. DMATs shall prepare to deploy within two to four hours of notification by the department. DMATs shall not self-deploy and shall not be covered by the provisions of Iowa Code section 135.143 and this chapter if self-deployed or deployed by another agency or entity.

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b. On-call team schedules shall be established and distributed by the department and shall be followed by the DMATs and sponsor agencies.

c. Deployment and standdown procedures are outlined in the Iowa DMAT Operational Procedures Manual and shall be followed by all DMAT members.

641—113.6(135) Environmental health response team.**113.6(1) General requirements.**

a. An entity may make application to the department to be a sponsor agency of an EHRT pursuant to subrule 113.3(1), or the department may elect to sponsor an EHRT. An individual may make application to the department to be a member of an EHRT pursuant to subrule 113.4(1).

b. The department shall establish EHRT operational procedures. The operational procedures shall be in writing and shall be provided to each EHRT member. All EHRT members shall follow the EHRT operational procedures as established by the department. The Iowa EHRT Operational Procedures Manual is available through the Iowa Department of Public Health, Center for Disaster Operations and Response, Lucas State Office Building, Des Moines, Iowa 50319-0075.

c. If the department notifies an EHRT member of a violation of Iowa Code section 135.143, this chapter, or an operational procedure, the EHRT member shall correct the deficiency or violation identified by the department within a time frame determined by the department. If an EHRT member fails to correct a deficiency or violation within the time frame identified by the department, or if the deficiency or violation constitutes an immediate danger to the public health, safety, or welfare, the department may initiate action to revoke approval pursuant to subrule 113.3(2) or 113.4(2).

113.6(2) Team composition.

a. An EHRT shall be comprised of a minimum of 20 environmental health professionals and administrative personnel as identified in the Iowa EHRT Operational Procedures Manual.

b. The department shall be responsible for maintaining adequate staffing.

113.6(3) Licensure and educational requirements.

a. Each EHRT member shall complete the following courses or shall complete other substantially similar courses approved by the department:

- (1) Incident command structure;
- (2) Weapons of mass destruction awareness;
- (3) Environmental health core competencies and essential services;
- (4) Hazardous materials awareness or operations; and
- (5) Basic, intermediate and advanced epidemiology training.

b. In addition to the requirements in paragraph 113.5(3)“a,” the EHRT’s leadership shall complete training in risk communication.

c. The department shall provide specific position training to EHRT members as determined to be necessary by the department.

d. The department shall develop and implement training exercises to test each team’s notification process, deployment readiness, and response capabilities.

e. The department shall be responsible for documenting each EHRT member’s completion of required training.

113.6(4) Deployment and standdown.

a. EHRTs shall prepare to deploy within two to four hours of notification by the department. EHRTs shall not self-deploy and shall not be covered by the provisions of Iowa Code section 135.143 and this chapter if self-deployed or deployed by another agency or entity.

b. On-call team schedules shall be established and distributed by the department and shall be followed by the EHRT.

c. Deployment and standdown procedures are outlined in the Iowa EHRT Operational Procedures Manual and shall be followed by all EHRT members.

641—113.7(135) Legal and other protections. A public health response team member acting pursuant to Iowa Code section 135.143 and this chapter shall be considered an employee of the state under Iowa Code section 29C.21 and chapter 669, shall be afforded protection as an employee of the state under Iowa Code section 669.21 whom the state shall defend and indemnify, and shall be considered an employee of the state for purposes of workers’ compensation, disability, and death benefits, provided that the member has done all of the following:

1. Registered with and received approval from the department pursuant to subrule 113.4(1) to serve on a public health response team.

2. Provided direct medical care or other support services during a disaster, threatened disaster, or other incident described in Iowa Code section 135.143(1); or participated in a training exercise to prepare for a disaster or other incident described in Iowa Code section 135.143(1).

641—113.8(135) Reporting requirements and duties.

113.8(1) Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, medical or other services as a public health response team member, such member or the member’s sponsor agency shall provide written notice to the department, as soon as practicable, containing to the extent obtainable the circumstance of the alleged injury, the name and address of the injured, and any other relevant information.

113.8(2) Upon obtaining knowledge or becoming aware of any injury as defined in subrule 113.8(1), a public health response team member shall promptly take all reasonable steps to prevent further or additional injury from the same or similar circumstances, situations, or conditions.

113.8(3) A public health response team member shall immediately notify the Iowa Department of Justice, Special Litigation Division, Hoover State Office Building, Des Moines, Iowa 50319, of service or receipt of an original petition, suit, or claim seeking damage from the public health response team member related to participation on a public health response team.

113.8(4) Each public health response team member shall fully cooperate with the state in the defense of any claim or suit related to participation on a public health response team, including attending hearings, depositions, and trials and assisting in securing and giving evidence, responding to discovery and ensuring the attendance of witnesses.

113.8(5) Each public health response team member shall accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation on a public health response team, including travel, meals, and compensation for time and lost practice.

These rules are intended to implement Iowa Code section 135.143.

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DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 691.6(6), the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 126, “State Medical Examiner,” and Chapter 127, “County Medical Examiners,” Iowa Administrative Code.

Item 1 of the proposed amendments states the fee assessed for medical examiner facility expenses and services related to tissue recovery, implementing 2006 Iowa Acts, House File 2768. Item 2 amends the definition of fetal death in numbered paragraph “6” of rule 127.1(144,331,691) to be consistent with the definition in Iowa Code section 144.29. Item 3 requires the completion of a form designated by the Iowa Office of the State Medical Examiner for cases where jurisdiction is declined or terminated to ensure that all cases of death being reported to county medical examiners are documented, filed, and reported consistently. Item 4 addresses procedures for the disposal of tissues, organs and bodily fluids, implementing section 120 of 2006 Iowa Acts, House File 2734.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 12, 2006. Such written comments should be directed to John Kraemer, P. A., Iowa Office of the State Medical Examiner, 2250 S. Ankeny Blvd., Ankeny, Iowa 50023-9093. E-mail may be sent to jkraemer@idph.state.ia.us.

These proposed amendments were presented to the State Medical Examiner Advisory Council and approved on October 25, 2006.

These amendments are intended to implement Iowa Code Supplement section 691.6 as amended by 2006 Iowa Acts, House Files 2734 and 2768.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend 641—Chapter 126 by adding **new** rule 641—126.4(691) as follows:

641—126.4(691) Fees for tissue recovery. When the tissue recovery room located within the Iowa office of the state medical examiner is utilized by an authorized tissue recovery agency, a fee of \$400 per case shall be assessed. The tissue recovery agency is responsible for this fee, payable to the Iowa office of the state medical examiner.

ITEM 2. Amend rule **641—127.1(144,331,691)**, definition of “death affecting the public interest,” numbered paragraph “6,” as follows:

6. Death of a person when unattended by a physician during the period of 36 hours immediately preceding death.

- This term includes the following situations:
 - Persons found dead without obvious or probable cause.
 - Death when the person was unattended by a physician during a terminal illness.
 - Fetal death unattended by a physician. A fetal death is a fetus born dead within its twentieth week of gestation after a gestation period of 20 completed weeks or greater or a fetus which weighs 350 grams or more (Iowa Code section 144.29).
- This term does not include a prediagnosed terminal or bedfast case in which a physician has been in attendance within 30 days preceding the death.
- This term does not include a terminally ill patient who was admitted to and received services from a hospice program as defined in Iowa Code section 135J.1, if a physician or registered nurse employed by the program was in attendance within 30 days preceding the death.

ITEM 3. Amend subrule 127.2(3) as follows:

127.2(3) Report—~~Form ME-1~~ *Reports required.*

a. *Form ME-1.*

(1) Preparation and filing. A county medical examiner shall prepare a written report of the examiner’s findings on the Preliminary Report of Investigation by Medical Examiner, Form ME-1. A county medical examiner shall file the original Form ME-1 with the state medical examiner’s office within 14 days of the date of death and shall file a copy of the Form ME-1 with the county attorney within 14 days of the date of death and shall retain a copy for the medical examiner’s records.

b. (2) Content. Form ME-1 shall be completed as fully as possible in light of all available information and may be signed by either a county medical examiner or a county medical examiner investigator acting under the supervision of a county medical examiner. If the cause or manner of death, identity of the decedent, or other information is unknown or pending at the time of filing, “unknown” or “pending” may be written in the appropriate area of the form. If additional information becomes available, this information shall be forwarded to the state medical examiner in written form at such time as it becomes available to be added as a supplement to the file.

b. *Jurisdiction declined or terminated.* A form designated by the Iowa office of the state medical examiner shall be completed and filed in accordance with subparagraphs (1) and (2) of paragraph “a” above in cases reported to the county medical examiner where jurisdiction is terminated or declined.

ITEM 4. Amend rule 641—127.3(691) by adding **new** subrule 127.3(7) as follows:

127.3(7) Retention and disposal of tissues, organs, and bodily fluids. The office of the state medical examiner shall retain tissues, organs, and bodily fluids as necessary to determine the cause and manner of death or as deemed advisable by the state medical examiner for medical or public health investigation, teaching, or research. Tissues, organs, and bodily fluids retained under this subrule shall be disposed of following their respective retention times in accordance with applicable federal and state regulations including but not limited to OSHA-recommended biohazard and blood-borne pathogen standards. The anatomical material shall be removed from the laboratory premises through use of a contracted, licensed, and bonded medical waste removal service to a medical waste processing center for final disposition.

ARC 5567B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 150, “Iowa Regionalized System of Perinatal Health Care,” Iowa Administrative Code.

These amendments add a new level of designation for neonatal intensive care units to better identify the capabilities of Level II regional centers that have neonatologists on staff. It is anticipated that four hospitals will apply for a level designation change. These amendments also update the name of a Division within the Department and delete the reference to the Certificate of Need process.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 12, 2006. Such written materials should be directed to Stephanie Trusty, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. E-mail may be sent to strusty@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 135 and 1998 Iowa Acts, chapter 121.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **641—150.1(135,77GA,ch1221)**, second unnumbered paragraph, as follows:

The following rules present a description of the levels of care among Iowa perinatal hospitals. The levels are as follows: Level I hospital, Level II hospital, Level II regional center, *Level II regional neonatology center*, and Level III center. The department is very much aware of the need for organization of limited resources in a rural state. Accordingly, the rules are designed to encourage and support the presence of a Level II regional center in areas not populous enough to support a Level III center.

ITEM 2. Amend rule **641—150.2(135,77GA,ch1221)**, definitions of “categorization” and “verification,” as follows:

“Categorization” means a preliminary determination by the department that a hospital is capable of providing perinatal care at Level I, Level II, Level II regional, *Level II regional neonatology center*, or Level III care capabilities.

“Verification” means a process by which the department certifies a hospital’s capacity to provide perinatal care in accordance with criteria established for Level I hospitals, Level II hospitals, Level II regional centers, *Level II regional neonatology centers*, and Level III centers under these rules.

ITEM 3. Amend rule **641—150.4(135,77GA,ch1221)**, numbered paragraphs “2” and “3,” as follows:

2. Mail the information to:

Iowa Regionalized System of Perinatal Health Care
Iowa Department of Public Health

~~Division of Family and Community Health Promotion~~
and Chronic Disease Prevention

321 East 12th Street, Lucas State Office Building
Des Moines, Iowa 50319-0075

3. ~~Seek a certificate of need reviewability determination and, if reviewable, obtain certificate of need approval. See Iowa Code sections 135.61 to 135.83 and Iowa Administrative Code 641—Chapters 202 and 203.~~

ITEM 4. Renumber rules **641—150.9(135,77GA,ch1221)** to **641—150.12(135,77GA,ch1221)** as **641—150.10(135,77GA,ch1221)** to **641—150.13(135,77GA,ch1221)** and adopt new rule **641—150.9(135,77GA,ch1221)** as follows:

641—150.9(135,77GA,ch1221) Level II regional neonatology centers.

150.9(1) Definition.

a. Level II regional neonatology centers provide the same care and services as Level II regional centers with the addition of a demonstrated commitment to providing a higher level of neonatology care. The Level II regional neonatology center will manage high-risk pregnancies and infants born at less than 34 weeks’ gestation or weighing less than 1500 grams. Exceptions will be cases for which surgical intervention or pediatric subspecialty care is anticipated or needed.

b. The obstetric service in a Level II regional neonatology center provides services for maternity patients at higher risk than those in Level II hospitals because of the presence of an NICU. However, reasonable efforts should be expended to transfer those patients whose newborns are likely to require a higher intensity of care not available in the Level II regional neonatology center but offered in a Level III center. Efforts should also be made to transfer those patients to a Level III center when the pregnancy has risk factors that require the care of a maternal-fetal medicine specialist.

c. Level II regional neonatology centers provide the same care and services as Level II regional centers. In addition, Level II regional neonatology centers have the following differentiating characteristics:

(1) A defined referral area;

(2) A defined relationship with a Level III center either in Iowa or a contiguous state;

(3) A minimum of two board-eligible or board-certified neonatal/perinatal medicine subspecialists on staff;

(4) Neonatology care available on a continuous 24-hour basis, with at least three obstetricians on staff; and

(5) A medical director in the neonatal intensive care unit who is a full-time, board-eligible or board-certified pediatrician with board eligibility or certification in neonatal/perinatal medicine.

150.9(2) Functions. Level II regional neonatology centers have the same functions as Level II regional centers.

a. Accept selected maternal transports based on criteria developed in conjunction with the Level III center;

b. Maintain nursing personnel demonstrating competency in the care of high-risk mothers;

c. Maintain a defined neonatal intensive care unit;

d. Maintain nursing personnel that demonstrate competency in the care of infants in neonatal intensive care;

e. Provide care for infants requiring ventilatory support;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

f. Maintain a functioning neonatal transport team for the regional area served; and

g. Provide for follow-up care of high-risk newborns in accordance with the Iowa high-risk infant follow-up program.

150.9(3) Physical facilities. Level II regional neonatology centers have the same physical facilities as Level II regional centers; however, they have special equipment for infants born at less than 34 weeks' gestation or weighing less than 1500 grams and they serve a more complicated patient population.

150.9(4) Medical personnel.

a. Level II regional neonatology centers have the same medical personnel as Level II regional centers.

b. The medical director of the neonatal intensive care unit is a full-time, board-eligible or board-certified pediatrician with certification in neonatal/perinatal medicine. This physician maintains a consultative relationship with Level III physicians.

c. Anesthesia providers on staff have special training or experience in obstetric and pediatric anesthesia.

d. A pediatric cardiologist is active on staff.

e. A neonatologist shall be on the premises when unstable critically ill infants are in the Level II regional neonatology center.

150.9(5) Nursing personnel. Level II regional neonatology centers have the same minimal requirements for nursing personnel as Level II regional centers. Additionally, registered nurses in the NICU of Level II regional neonatology centers must have specialty certification or advanced training and experience in the nursing management of high-risk neonates and their families.

150.9(6) Outreach education. Outreach education is provided to each hospital in the referral area at least once per year. This can be achieved by one or more of the following:

a. Sponsoring an annual conference;

b. Visiting Level I and Level II hospitals;

c. Providing educational programs at the regional center for the staff members of the Level I and Level II hospitals;

d. Sending written educational materials to the Level I and II hospitals.

150.9(7) Allied health personnel and services. Level II regional neonatology centers have the same allied health personnel and services available as Level II regional centers, with the addition of the following:

a. Respiratory therapists, certified lab technicians/blood gas technicians, X-ray technologists, and ultrasound technicians with neonatal/perinatal experience available on a 24-hour basis.

b. Social services, with social workers assigned specifically to the maternal and neonatal units.

150.9(8) Infection control. Infection control guidelines are the same as for Level II hospitals and Level II regional centers.

150.9(9) Newborn safety. Level II regional neonatology centers have at least the same requirements for newborn safety as Level II regional centers.

150.9(10) Maternal-fetal transport. Level II regional neonatology centers have the same requirements for maternal-fetal transport as Level II hospitals and Level II regional centers. In addition, Level II regional neonatology centers are expected to provide neonatal transportation services.

150.9(11) Perinatal care committee. Level II regional neonatology centers maintain a perinatal care committee with the same required meetings and membership as the Level II hospitals and Level II regional centers.

150.9(12) Quality improvement. Centers that routinely provide care to infants born at less than 34 weeks' gestation or weighing less than 1500 grams shall maintain a patient database of all NICU admissions that includes an accounting of patient mortality and morbidity for the benchmarking of results against other centers (national or statewide) and for the purpose of continuous review and quality improvement.

ITEM 5. Amend renumbered subrule 150.11(6) as follows:

150.11(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: Iowa Regionalized System of Perinatal Health Care, Iowa Department of Public Health, Division of ~~Family and Community~~ *Health Promotion and Chronic Disease Prevention*, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

ITEM 6. Amend renumbered subrule 150.11(14) as follows:

150.11(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Regionalized System of Perinatal Health Care, Iowa Department of Public Health, Division of ~~Family and Community~~ *Health Promotion and Chronic Disease Prevention*, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 7. Amend renumbered rule 641—150.12(135, 77GA, ch1221) as follows:

641—150.12(135, 77GA, ch1221) Prohibited acts. A hospital that imparts or conveys, or causes to be imparted or conveyed, that it is a participating hospital in Iowa's regionalized system of perinatal health care, or that uses any other term, such as a designated level of care, to indicate or imply that the hospital is a participating hospital in the regionalized system of perinatal health care without having obtained a certificate of verification from the department is subject to licensure disciplinary action by the department of inspections and appeals, as well as to the application by the director to the district court for a writ of injunction to restrain the use of the term or terms "Level I hospital," "Level II hospital," "Level II regional center," "*Level II regional neonatology center*," and "Level III center" in relation to the provision of perinatal health care services.

ARC 5561B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby gives Notice of Intended Action to amend Chapter 300, “State Building Code—Administration,” Iowa Administrative Code.

2006 Iowa Acts, House File 2797, amended Iowa Code chapter 103A to extend the applicability of the State Building Code to certain buildings and facilities not previously covered and to establish an inspection function in the Building Code Bureau. The inspection function will supplement the plan review and approval process already in place in the Bureau. The Building Code Commissioner previously proposed amendments which include most of the provisions needed to implement the new statutory requirements. The proposed amendments were published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5404B**. These amendments, which are Adopted and Filed and published herein as **ARC 5553B**, will become effective on January 1, 2007.

The new statutory language requires the Building Code Commissioner to establish by administrative rule the qualifications of those who will conduct inspections for compliance with the State Building Code. At the time the Notice of Intended Action for the general updating of the State Building Code was submitted, the reasonable qualifications for inspectors had not been determined. Based upon research conducted in the intervening time, the Building Code Commissioner has determined that inspectors should be certified as commercial building inspectors by the International Code Council or should have achieved an equivalent level of qualification. The amendment proposed herein provides for this level of qualification.

This amendment is also Adopted and Filed Without Notice and published herein as **ARC 5560B** because it is necessary that requirements for qualification of inspectors become effective on January 1, 2007, the same effective date as that of the other updates to the State Building Code.

A public hearing on this proposed amendment will be held on December 12, 2007, at 10 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. Persons may present their views concerning this amendment at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing may contact the Agency Rules Administrator, Iowa Department of Public Safety, 502 East 9th Street, Des Moines, Iowa 50319; or by telephone at (515)281-5524 at least one day prior to the hearing, although anyone may speak at the hearing, whether or not the person has contacted the Agency Rules Administrator.

Any interested persons may make oral or written comments concerning this proposed amendment to the Agency Rules Administrator by mail, telephone, or in person at the

above address by 4:30 p.m. on December 12, 2006. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing.

This amendment is intended to implement 2006 Iowa Acts, House File 2797, section 72, subsection 4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt the following **new** subrule:

300.5(4) Any person who performs a building code inspection on behalf of the building code commissioner shall have and maintain one of the following: (1) current certification as a commercial building inspector by the International Code Council, or (2) other equivalent certification approved by the building code commissioner. An employee of the department who performs an inspection on behalf of the building code commissioner shall, in addition, meet any requirements for the job class in which the employee is classified as established by the department of administrative services, pursuant to Iowa Code chapter 8A, subchapter IV, part 2.

EXCEPTION: An employee of the department who performs inspections on behalf of the building code commissioner may perform such inspections for no more than six months prior to obtaining the required certification.

ARC 5545B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, “Assessment Practices and Equalization,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Item 1 amends subrule 71.1(1) to prohibit an assessor from using dual classifications for property. The land and the buildings located on that land are to be classified the same. An exception is made for buildings located on leased land, in which case different classifications are permissible. Also, the assessor is required to classify and value property according to its present use rather than its potential use.

Item 2 amends rule 701—71.3(421,428,441) to require an assessor to apply the agricultural factor uniformly to all agricultural buildings in the assessing jurisdiction. Item 2 also amends rule 701—71.3(421, 428, 441) to require an assessor to value the land beneath a dwelling in the same manner as the remainder of the land upon which the dwelling is located.

Item 3 amends rule 701—71.26(441) to permit an assessor to use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the Department of Revenue.

REVENUE DEPARTMENT[701](cont'd)

Item 4 amends rule 701—80.3(427) to require an assessor to prepare the assessment for the property and then allow the taxpayer to apply for a tax exemption for the property.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 26, 2006, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, or at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 12, 2006. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 13, 2006.

These amendments are intended to implement Iowa Code chapters 427 and 441.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 71.1(1) as follows:

71.1(1) Responsibility of assessors. All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. *There can be only one classification per property. An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building (dual classification). A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located.* The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. *The assessor shall classify and value property according to its present use and not according to its highest and best use. For example, property currently used as a golf course shall be assessed and valued by the assessor as a golf course even though its highest and best potential use may be an industrial park or commercial development.* See

subrule 71.1(8) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 71.8(428,441).

ITEM 2. Amend rule 701—71.3(421,428,441) as follows:

701—71.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the "Iowa Real Property Appraisal Manual" and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(18).

In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the Iowa crop and livestock reporting service, the department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed.

The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and spread such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

In order to determine a productivity value for agricultural buildings and structures, assessors shall make an agricultural adjustment to the market value of these buildings and structures by developing an "agricultural factor" for their jurisdiction. The agricultural factor for each jurisdiction shall be the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa real property appraisal manual prepared by the department. *The agricultural factor shall be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction.* As an example, if a building's actual value is \$500,000 and the agricultural factor is 50 percent, the productivity value of that building is \$250,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002).

Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 3. Amend rule 701—71.26(441), introductory paragraph, as follows:

701—71.26(441) Assessor compliance. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa real property appraisal manual prepared by the department. *The assessor may use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the department.*

REVENUE DEPARTMENT[701](cont'd)

ITEM 4. Amend rule 701—80.3(427) as follows:

Adopt the following **new** subrule:

80.3(10) An assessor shall not exempt property from taxation without first assessing the property for taxation and subsequently receiving an application for tax exemption from the taxpayer.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code Supplement ~~subsection~~ *section* 427.1(19) as amended by 2006 Iowa Acts, House File 2633, and Iowa Code sections 427.1(18) and 441.21(1)(i).

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for November is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants Maximum 6.0%

74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Gov-

ernment securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective November 9, 2006, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.85%
32-89 days	Minimum 2.85%
90-179 days	Minimum 3.30%
180-364 days	Minimum 3.60%
One year to 397 days	Minimum 3.85%
More than 397 days	Minimum 4.65%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 5570B

AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 159.5(11) and 214A.2 and 2006 Iowa Acts, House File 2754, section 6, the Department of Agriculture and Land Stewardship hereby amends Chapter 85, "Weights and Measures," Iowa Administrative Code.

The amendment amends rule 21—85.33(214A,208A) which sets standards for motor fuel and antifreeze to be used or sold in Iowa. The amendment updates the references to uniform industry standards as mandated by Iowa Code section 214A.2.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable. Notice and public participation would result in needless delay in updating the motor vehicle fuel standards to the standards specified in Iowa law.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit to the public because it clarifies the standards to be used for motor fuels in Iowa.

The amendment is also published herein under Notice of Intended Action as **ARC 5569B** to allow for public comment.

No waiver provision is included in this amendment. The Department has a general rule that allows for waivers in appropriate cases.

This amendment is intended to implement Iowa Code chapter 214A and 2006 Iowa Acts, House File 2754.

This amendment became effective upon filing November 3, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule 21—85.33(214A,208A) as follows:

21—85.33(214A,208A) Motor vehicle fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor vehicle fuel, ~~oxygenate-octane enhancers, including but not limited to renewable fuels such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and components such as an oxygenate, raffinate natural gasoline and motor vehicle antifreeze shall be those established by the American Society for Testing and Materials (ASTM) in effect on January 1, 2005~~ *October 1, 2006, except that the standards for E-Grade denatured fuel ethanol shall be the American Petroleum Institute's (API) specification in use at the Iowa terminals; however, the diesel fuel lubricity standard (ASTM D 975, Table 1, Lubricity) shall not be effective until October 1, 2005. Diesel fuel which does not comply with ASTM international specifications may be stored in Iowa only if the diesel fuel is stored at a terminal for the purposes of blending the diesel fuel with biodiesel so that the finished biodiesel blended product does meet the applicable specifications.* In addition, a ~~retail dealer of motor vehicle fuel that contains more than one-half of 1 percent of methyl tertiary butyl ether (MTBE) by volume shall not sell or offer for sale be sold, offered for sale, or stored in Iowa a motor vehicle fuel that contains more than one-half of one percent of methyl tertiary butyl ether (MTBE) by volume.~~

This rule is intended to implement Iowa Code sections 208A.5, 208A.6 and 215.18 and 1999 Iowa Acts, chapter 204 2006 Iowa Acts, House File 2754.

[Filed Emergency 11/3/06, effective 11/3/06]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5541B**CITY FINANCE COMMITTEE[545]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 384.6 and 384.15, the City Finance Committee hereby amends Chapter 4, "Employee Benefits," Iowa Administrative Code.

The purpose of the amendment to rule 4.1(384) is to update definitions of employee benefits due to changes that have occurred over the past 18 years. Changes have resulted in consolidation of various specific benefits, preventative health care, wellness options, and catastrophic illness care. The amendment to rule 4.1(384) recognizes the consolidation and provides city officials clearer direction as to what constitutes an employee benefit. The amendment to rule 4.3(384) includes the amended definitions for rule 4.1(384) and will not change the optional procedures for budgeting employee benefits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5310B**. A public hearing was held on September 5, 2006. No public comment was received on this rule making. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 384.6 and 384.15.

These amendments were adopted by the Committee on October 20, 2006.

These amendments will become effective December 27, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [4.1, 4.3] is being omitted. These amendments are identical to those published under Notice as **ARC 5310B**, IAB 8/16/06.

[Filed 10/25/06, effective 12/27/06]
[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5542B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 104, "Iowa Wine and Beer Promotion Grant Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5335B** on August 30, 2006. The IDEB Board adopted the amendments on October 19, 2006.

The amendment allows for two grants to be received within each category of funding per cycle of funding.

A public hearing was held on September 19, 2006. No comments concerning the proposed amendment were received from the public. The final amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 15E.117.

This amendment will become effective on December 27, 2006.

The following amendment is adopted.

Amend subrule 104.3(1) as follows:

104.3(1) Eligible applicants. To qualify for funding, applicants must include a group of at least three native Iowa wineries or breweries, unless there are fewer than three licensees in either category. If there are fewer than three licensees in a category, then all of the licensees in that category must be included in the event. There shall be a maximum of ~~one~~ *two awards* per group per fiscal year.

[Filed 10/27/06, effective 12/27/06]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5552B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 15, "Unfair Trade Practices," Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B. The amendments clarify limitations on the receipt of gifts and loans by insurance producers. The amendments also implement the changes made to Iowa Code section 505.16(2) in 2006 Iowa Acts, Senate File 2364, to require an insurer to report to the Department of Public Health information relating to a positive human immunodeficiency virus (HIV) test that the insurer receives in connection with an application for insurance when an applicant or policyholder does not designate a physician or alternative testing site to receive the information. Iowa insurance companies and producers shall comply with these rules beginning January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5409B**. A public hearing was held on October 18, 2006, at 10 a.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

No written comments or suggestions regarding the proposed amendments were received by the Division. No changes have been made to the Notice.

These amendments are intended to implement Iowa Code chapter 507B.

These amendments will become effective December 27, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 15] is being omitted.

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These amendments are identical to those published under Notice as **ARC 5409B**, IAB 9/27/06.

[Filed 11/2/06, effective 12/27/06]
[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5556B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," and Chapter 21, "Surplus Lines Requirements," Iowa Administrative Code.

The rules in Chapter 20 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The rules in Chapter 21 provide duties and procedures for insurance producers and nonadmitted insurers to follow in order to sell excess and surplus lines insurance in Iowa. The amendments to the rules update and clarify the duties and procedures. Insurance companies and producers shall comply with these rules beginning January 1, 2007, for policies sold or issued on or after January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5408B**. A public hearing was held on October 18, 2006, at 1 p.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

Some written comments and suggestions regarding the proposed amendments were received by the Division. Based on the suggestions, some technical changes and clarifications have been made to rule 21.5(515) in Item 7 and subrule 21.7(2) in Item 8. No other changes were made to the Notice.

These amendments are intended to implement Iowa Code chapters 515 and 515E.

These amendments will become effective December 27, 2006.

The following amendments are adopted.

ITEM 1. Rescind rule 191—20.7(515E) as follows:

191—20.7(515E) Risk retention and purchasing groups. All risk retention groups and purchasing groups required to file notice with the commissioner pursuant to Iowa Code sections 515E.4 and 515E.8 shall include a fee of \$100 with each filing.

ITEM 2. Amend the title of **191—Chapter 21** as follows:

CHAPTER 21

SURPLUS LINES REQUIREMENTS FOR EXCESS AND SURPLUS LINES, RISK RETENTION GROUPS AND PURCHASING GROUPS

ITEM 3. Amend rule 191—21.1(515) as follows:

191—21.1(515) Definitions. In addition to the definitions provided in Iowa Code chapters 515 and 515E, the following definitions shall apply to this chapter, unless the context clearly requires otherwise:

"Division" means the Iowa insurance division.

"Excess and surplus lines insurance" means surplus lines insurance.

"NAIC UCAA" means a National Association of Insurance Commissioners Uniform Certificate of Authority Application form.

"Nonadmitted insurer" means an insurer that is not licensed by or admitted to do business in this state.

"Place" means obtaining insurance for an insured with a specific insurer.

21.1(1) "Producer" when used herein is defined to be that person who ultimately delivers the policy to the policyholder or means the person who places the policy with the insurance company. The producer may be either a resident or nonresident of this state and must be licensed in Iowa to sell insurance classified as excess and surplus lines.

"Qualified surplus lines carrier" means a nonadmitted insurer that the division has determined is qualified to provide surplus lines coverage as set forth in Iowa Code section 515.147, but in no event shall "qualified surplus lines carrier" include an insurer described in Iowa Code section 515.148.

~~**21.1(2)** "Surplus lines carrier" when used herein is defined to be certain nonadmitted insurers qualified to provide surplus lines coverage as set out in Iowa Code section 515.147, but in no event shall the term include those insurers described in Iowa Code section 515.148.~~

"Surplus lines insurance" means insurance on a risk or a part of a risk for which there is no market available through the original insurance producer in Iowa; therefore, the risk needs to be placed with a qualified surplus lines carrier, in accordance with the provisions of Iowa Code chapter 515 and this chapter.

ITEM 4. Amend rule 191—21.2(515) as follows:

191—21.2(515) Nonadmitted insurer's Qualified surplus lines carriers' duties.

21.2(1) Insurer liable. Where, pursuant to Iowa Code section 515.147, coverage is placed with a nonadmitted insurer qualified surplus lines carrier, such insurer the qualified surplus lines carrier shall be liable for the premium tax required by Iowa Code section 515.147.

21.2(2) How premium tax quoted. A nonadmitted insurer qualified surplus lines carrier or a broker therefor for a qualified surplus lines carrier is authorized to quote a premium which includes tax as is required by Iowa Code section 515.147, and thereafter no additional tax amount may be charged or collected. Premium tax may be stated in the contract of insurance as a separate component of the total premium only when the premium is not based upon rates or premiums which included a premium tax component when promulgated. Policy fees collected from residents of this state are considered part of the premium and thus are subject to taxation.

ITEM 5. Amend rule 191—21.3(515) as follows:

191—21.3(515) Producers' duties.

21.3(1) Producer collection of tax. A licensed producer who procures or places insurance in nonadmitted insurers qualified surplus lines carriers shall collect premium tax from the nonadmitted insurer qualified surplus lines carriers by withholding 2 1 percent of the premiums for such tax.

21.3(2) Affidavits required. A producer who places insurance shall within 30 days subsequent to the date of delivery of a policy issued by a nonadmitted insurer cause to be filed with the commissioner of insurance a sworn statement on Form No. SL163A. In lieu of filing affidavits for each

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policy issued by a nonadmitted insurer, the producer may file a diskette with the commissioner on a monthly basis for multiple affidavit filings. The producer shall include with the diskette filed with the commissioner a sworn statement on Form No. SL163B. Copies of Form SL163A and Form SL163B are on file in the insurance division office and the division's Web site, <http://www.state.ia.us/government/com/ins/ins.htm>. Quarterly reports required. A producer who places insurance with a qualified surplus lines carrier shall file a report with the division. Reports shall be filed on April 10, July 10, October 10 and January 10, summarizing the surplus lines insurance issued during the prior calendar quarter. The reports shall be made using the division's Form SL2007 and shall be filed electronically or as otherwise directed by the division. A producer is not required to file a report for a quarter in which no surplus lines insurance was issued. If a producer does not file a quarterly report by the due date, the producer shall be fined \$100 on the day after the report was due and an additional \$100 on the first of each month thereafter until the report is filed.

21.3(3) Annual report. On or before March 1 of each year, every producer who has placed insurance in nonadmitted insurers with qualified surplus lines carriers when the policies have been issued during the preceding calendar year shall file electronically with the commissioner of insurance division or as otherwise directed by the division a sworn report of all such business written during the preceding calendar year and shall submit the amount. Said report shall be accompanied by a remittance to cover the taxes due on said business and shall be filed on Form No. SL263. Failure to file said an annual return or pay the taxes imposed by Iowa Code sections section 515.147 et seq., will be deemed grounds for the revocation of a producer's license by the insurance division, and failure to file an annual return or pay taxes within the time requirements of this rule will subject the producer to the penalties of 2006 Iowa Acts, Senate File 2364, section 68 [Iowa Code section 515.147A].

ITEM 6. Amend rule 191—21.4(515) as follows:

191—21.4(515) Producers' duty to insured; evidence of coverage. Each A producer placing who places coverage in nonadmitted insurers with a qualified surplus lines carrier as defined herein shall deliver to the insured, within 30 days of the date of delivery of the policy is issued, one of the following:

1. Language which states as follows a notice that states the following: "This policy is issued, pursuant to Iowa Code section 515.147, by a nonadmitted company in Iowa and as such is not covered by the Iowa Insurance Guaranty Association." Such requirement may be complied with A producer may comply with this rule by typing or stamping a verbatim copy of this language in a clear and conspicuous place on the policy;

2. A copy of the affidavit filed with the division.

ITEM 7. Amend rule 191—21.5(515) as follows:

191—21.5(515) Procedures for qualification and renewal of as a nonadmitted insurer as a qualified surplus lines carrier.

21.5(1) Application and procedures for initial qualification of a nonadmitted insurer as a qualified surplus lines carrier.

a. Any insurer who wishes to qualify under Iowa Code section 515.147 as a nonadmitted insurer shall make an application.

b. The application shall contain the following information, which also is listed on the division's Web site, www.iid.state.ia.us:

1. (1) A certificate of compliance from the state of domicile. A completed NAIC UCAA Expansion Application, available through the division's Web site, www.iid.state.ia.us, or through the NAIC Web site, www.naic.org/industry.

2. An executed power of attorney. This document shall be in a form which is found in the appendix to this chapter.

3. A biographical affidavit of directors and principal officers. This document shall be in a form which is found in the appendix to this chapter.

4. A copy of the insurer's annual statement for the last preceding calendar year. Applications received between November 1 and December 31 will not be examined until an annual statement for the current calendar year is available.

5. The insurer's most recent calendar year quarterly financial statement.

6. A certified copy of the most recent state of domicile examination report.

7. A current certified public accountant audit report.

8. A marketing plan of operation.

9. (2) A designation of a licensed Iowa resident producer qualified to write excess and surplus lines insurance.

10. (3) Remittance of the greater of a \$50 \$100 filing fee or a retaliatory fee, and a \$500 examination fee for all new applicants.

c. In addition to the above requirements, the insurer shall:

(1) Maintain the greater of either have minimum capital and surplus of \$5 million or risk-based capital pursuant to Iowa Code chapter 521E, and

(2) Have been actively in operation for at least three years without significant changes in ownership or management during the three-year period.

These financial and management requirements may be waived by the commissioner division upon a finding that the insurer will be offering coverage in a line of insurance for which there is an unavailability of capacity and an extraordinary need for coverage in this state. The commissioner division may require other information as deemed necessary.

21.5(2) Procedures for renewal of a nonadmitted insurer as a qualified surplus lines carrier.

a. A nonadmitted insurer that is not an alien insurer as defined in Iowa Code section 515.70 and that met the division's requirements for becoming a qualified surplus lines carrier shall, by March 1 of each year following the year of qualification:

(1) Continue to comply with paragraph 21.5(1) "c";

(2) Pay a \$100 renewal fee; and

(3) Submit to the division the documents and materials listed on the division's Web site, www.iid.state.ia.us.

b. In addition, a nonadmitted insurer that is not an alien insurer as defined in Iowa Code section 515.70 shall file quarterly financial statements as required by the division.

21.5(3) Failure of a nonadmitted insurer to timely submit the materials required in this rule or to otherwise fail to comply with this rule shall result in the termination of the nonadmitted insurer's status as a qualified surplus lines carrier.

ITEM 8. Amend rule 191—21.6(515) as follows:

191—21.6(515, 515E) Risk retention groups. A risk retention group as defined in Iowa Code chapter 515E may utilize its producers to report and pay premium taxes or may pay the taxes directly. If producers are utilized, they shall follow the procedure set forth in subrule 21.3(2). In the event that the group desires to pay the premium tax directly, it shall file with

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the ~~commissioner~~ division, electronically or as directed by the division, a sworn statement on Form No. SL264 ~~—A copy of Form SL264 is on file in the insurance division office, and other information required through the division's Web site, www.iid.state.ia.us.~~

ITEM 9. Adopt **new** rule 191—21.7(515E) as follows:

191—21.7(515E) Procedures for qualification as a risk retention group.

21.7(1) Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group shall file with the division an application that contains:

a. The information set forth in Iowa Code sections 515E.4(1) and (2), which also is listed on the division's Web site, www.iid.state.ia.us; and

b. Remittance of a \$100 filing fee plus any additional retaliatory fees.

21.7(2) A risk retention group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group shall annually provide information requested by the division for determination of continued registration.

ITEM 10. Adopt **new** rule 191—21.8(515E) as follows:

191—21.8(515E) Procedures for qualification as a purchasing group.

21.8(1) Prior to doing business in this state, a purchasing group shall furnish to the division notice that shall include:

a. The information set forth in Iowa Code section 515E.8, which also is listed on the division's Web site, www.iid.state.ia.us; and

b. Remittance of a \$100 filing fee.

21.8(2) A registered purchasing group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The purchasing group must provide information requested by the division for determination of continued registration.

ITEM 11. Adopt **new** rule 191—21.9(515,515E) as follows:

191—21.9(515,515E) Failure to comply; penalties. Failure of a producer, insurer, risk retention group or purchasing group to comply with this chapter or with Iowa Code section 515.147, 515.148, or 515.149, or chapter 515E may subject the producer, insurer, risk retention group or purchasing group to penalties set forth in Iowa Code chapter 507B or 2006 Iowa Acts, Senate File 2364, section 68 [Iowa Code section 515.147A].

ITEM 12. Amend **191—Chapter 21** by deleting the forms entitled "Power of Attorney," "Copy of Resolution," and "Biographical Affidavit" at the end of the chapter.

[Filed 11/2/06, effective 12/27/06]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5554B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 508E.4, the Insurance Division hereby amends Chapter 48, "Viatical and Life Settlements," Iowa Administrative Code.

The rules in Chapter 48 provide for the administration of viatical and life settlements in this state by providing rules under which viatical and life settlements may be made, and safeguards by which viatical settlement providers may be monitored and remain in good standing. The amendments update the rules to reflect recent changes to the National Association of Insurance Commissioners (NAIC) model regulation on viatical settlements. Iowa viatical settlement brokers and providers shall comply with these rules for all viatical settlement purchase agreements issued on or after January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5407B**. A public hearing was held on October 17, 2006, at 9 a.m. in the conference room of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319.

Some written comments and suggestions regarding the proposed amendments were received by the Division. No changes have been made to the Notice.

These amendments are intended to implement Iowa Code chapter 508E.

These amendments will become effective December 27, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [48.3, 48.8(3), 48.9(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 5407B**, IAB 9/27/06.

[Filed 11/2/06, effective 12/27/06]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5548B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), and 2006 Iowa Acts, House File 2782, section 63, the Iowa Finance Authority adopts new Chapter 28, "Wastewater Treatment Financial Assistance Program," Iowa Administrative Code.

The purpose of these rules is to provide a process for granting funds to be used to enhance water quality, to assist communities to comply with water quality standards adopted by the Department of Natural Resources and to pay for engineering or technical assistance for facility planning and design.

Chapter 28 does not provide for waivers. Persons seeking waivers from the rules contained in Chapter 28 may petition the Authority for a waiver in the manner set forth under 265—Chapter 18.

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Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as **ARC 5346B**. The Authority received written comments on the amendment. Based on consideration of the public comment received, the Authority made the following changes to the rules as originally noticed:

1. The term “state agency” and the phrases “or corporation” and “or any combination of two or more of the governmental bodies or corporations acting jointly” were stricken from the definition of “community” in rule 265—28.2(81GA,HF2782). The term “rural water district” was added to that same definition.

2. In subrule 28.3(2), the word “certifies” was changed to “determines.”

3. The second sentence of subrule 28.3(5) was added.

4. The following sentence was deleted from subrule 28.3(7): “After construction, recipients shall also agree to provide the authority and the department periodic access to the project site to ensure it is being operated and maintained as designed.”

For clarification, certain other nonsubstantive editorial changes were made as well.

The Iowa Finance Authority adopted these rules on November 1, 2006.

These rules will become effective on December 27, 2006.

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 63.

The following new chapter is adopted.

CHAPTER 28 WASTEWATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

265—28.1(81GA,HF2782) Overview.

28.1(1) Statutory authority. The authority to provide financial assistance to communities that must install or upgrade wastewater treatment facilities and systems is provided by 2006 Iowa Acts, House File 2782, section 63. The wastewater treatment financial assistance fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law.

28.1(2) Purpose. The purpose of the program is to provide grants to enhance water quality and to assist communities to comply with water quality standards adopted by the department of natural resources. Financial assistance under the program shall be used to install or upgrade wastewater treatment facilities and systems, and for engineering or technical assistance for facility planning and design.

265—28.2(81GA,HF2782) Definitions.

“Authority” or “IFA” means the Iowa finance authority as established by Iowa Code chapter 16.

“Community” means a city, county, sanitary district, rural water district, or other governmental body or corporation empowered to provide sewage collection and treatment services in connection with a project.

“Department” or “DNR” means the Iowa department of natural resources.

“Director” means the director of the authority.

“Program” means the wastewater treatment financial assistance program created in 2006 Iowa Acts, House File 2782, section 63.

“Project” means the acquisition, construction, reconstruction, extension, equipping, improvement or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner.

“Recipient” means the entity receiving funds from the program.

“SRF” means the state revolving fund, which is the Iowa water pollution control works and drinking water facilities financing program administered by IFA and DNR.

265—28.3(81GA,HF2782) Project funding.

28.3(1) Recipient eligibility. Communities eligible to apply for assistance shall meet the following criteria:

a. The project will serve a community that qualifies as a disadvantaged community as defined by DNR for the drinking water facilities revolving loan fund established in Iowa Code section 455B.295;

b. The community is required to install or upgrade wastewater treatment facilities or systems due to regulatory activity in response to water quality standards adopted by DNR in calendar year 2006; and

c. The population of the community served by the project is less than 3,000.

28.3(2) Project eligibility and priority. Financial assistance is available for the upgrade or installation of wastewater treatment facilities and systems attributable to compliance with changes to the water quality standards adopted by DNR in calendar year 2006. Financial assistance shall be available under the program only for projects for which DNR determines that completion of the project, or a part of the project, is necessary for the community to meet water quality standards. Priority shall be given to projects in which the program financial assistance is used in connection with financing under the SRF, or is used in connection with other federal or state financing. Priority shall also be given to projects that will provide the most significant improvement to water quality; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund and set forth in 567—Chapter 91.

28.3(3) Applications. Applications will be accepted quarterly on forms developed by IFA and available at www.ifahome.com. Grants will be awarded quarterly. IFA will coordinate with other applicable state or federal financing programs when possible.

28.3(4) Required matching funds. Communities approved for financing shall provide matching moneys in the following amounts:

a. Sewered communities and unsewered incorporated communities with a population of less than 500 shall provide a 5 percent match.

b. Communities with a population of 500 or more but less than 1,000 shall provide a 10 percent match.

c. Communities with a population of 1,000 or more but less than 1,500 shall provide a 20 percent match.

d. Communities with a population of 1,500 or more but less than 2,000 shall provide a 30 percent match.

e. Communities with a population of 2,000 or more but less than 3,000 shall provide a 40 percent match.

28.3(5) Costs. All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed. The applicant must declare how much of the total project costs are attributable to complying with the changes to the water quality standards adopted by DNR in calendar year 2006.

28.3(6) Record retention. The recipient shall maintain records that document all costs associated with the project. The recipient shall agree to provide access to these records to the authority. The recipient shall retain such records and doc-

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uments for inspection and audit purposes for a period of three years from the date of the final disbursement of grant funds.

28.3(7) Site access. The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

265—28.4(81GA,HF2782) Termination; rectification of deficiencies; disputes.

28.4(1) Termination. The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director shall establish a repayment schedule for funds already disbursed to the recipient. All terminations shall be in writing.

28.4(2) Rectification of deficiencies. Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified deficiency is rectified. Once the deficiency is corrected, the funds can be released.

28.4(3) Disputes. A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 63.

[Filed 11/1/06, effective 12/27/06]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5562B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 15, "Dividends," Iowa Administrative Code.

The following paragraphs itemize the amendments:

Item 1 allows an IPERS-covered employer to submit proof that its status as a covered employer began earlier than the date previously provided to IPERS as long as the related IPERS coverage applies to all employees who were in covered employment as of the earlier date.

Items 2 and 3 implement procedures related to the electronic funds transfer of employer contributions to IPERS primarily for the purpose of making information about these procedures more available to employers and other members of the public.

Item 4 changes the contribution rates for regular class members as provided by the legislature effective July 1, 2007.

Item 5 provides that all protection occupation service credit shall constitute "eligible service" in determining benefits entitlement under Iowa Code section 97B.49C, and clarifies that the member's last covered employment must be as a sheriff or deputy sheriff in order to qualify for pre-age 55 nondisability retirement under Iowa Code section 97B.49C.

Item 6 provides that, in order to be eligible for benefits under Iowa Code section 97B.49C, the member's last employment must be as a sheriff or deputy sheriff.

Items 7, 13 and 14 establish procedures for counting employer contributions to various deferred compensation arrangements for retired reemployed members beginning in July 2007.

Item 8 provides an updated citation to the Iowa Code.

Item 9 allows for a longer time period for evaluating the effect of the shortened "bona fide retirement" period offered to licensed health care workers.

Item 10 corrects a scrivener's error regarding the increase in the multiplier for years in excess of 22 for protection members.

Items 11 and 12 provide additional calculation details deemed necessary by IPERS staff to supplement the antisipik provisions adopted by the legislature.

Item 15 makes changes reflecting that line-of-duty death benefits for certain voluntary emergency services personnel will now be paid from the general fund and not IPERS funds.

Items 16 and 17 provide for legislative changes which permit new allocations to the favorable experience dividend (FED) only if IPERS is fully funded before and after such transfers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5401B**. A public hearing was held on October 17, 2006. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

There are no waiver provisions included in the amendments.

These amendments will become effective December 27, 2006.

These amendments are intended to implement Iowa Code chapter 97B and 2006 Iowa Acts, House Files 729, 2245 and 2665.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 4, 6, 11, 12, 14, 15] is being omitted. These amendments are identical to those published under Notice as **ARC 5401B**, IAB 9/27/06.

[Filed 11/3/06, effective 12/27/06]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5564B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 91C.6, the Labor Commissioner hereby amends Chapter 150, "Construction Contractor Registration," Iowa Administrative Code.

The amendments strike the requirement that contractors using more than one name obtain separate registration numbers for each name and change the format of registration numbers.

The purpose of these amendments is to implement legislative intent.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5391B**. No public comments were received. No changes have been made from the Notice of Intended Action.

No waiver provision is required in these amendments as waiver procedures are established in 875—Chapter 1.

These amendments are intended to implement Iowa Code chapter 91C.

These amendments will become effective on January 1, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [150.3, 150.7] is being omitted. These amendments are identical to those published under Notice as **ARC 5391B**, IAB 9/27/06.

[Filed 11/3/06, effective 1/1/07]
[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5557B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 100.1 and 100.35, the State Fire Marshal hereby amends Chapter 5, "Fire Marshal," and adopts new Chapter 201, "General Fire Safety Requirements," new Chapter 202, "Requirements for Specific Occupancies," and new Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.1, subsections 5 and 6, and section 100.35 assign broad authority to the State Fire Marshal to establish by administrative rule fire safety requirements applicable across the State of Iowa. Such rules have been in effect for over 50 years, and many of the current requirements refer to national codes and standards which are outdated. In addition, the current rules are not comprehensive and are complex and difficult to understand.

Recognizing the need to update the requirements while organizing the rules in a more understandable fashion, the State Fire Marshal established a Fire Code Advisory Committee, including representatives of several constituencies with an interest in fire prevention and suppression, in order to develop recommendations as to how the current rules should be re-

vised. The Fire Code Advisory Committee held several public meetings at which public input into the process of developing recommendations was encouraged. Recently, the Committee recommended to the State Fire Marshal that new fire safety requirements be based upon adoption of the International Fire Code, 2006 edition, and provisions of the International Building Code, 2006 edition, which relate to fire safety. The International Fire Code and the International Building Code are published by the International Code Council. These codes are part of the "family" of international codes, or "I-Codes," and are in widespread use, both in other states and in local jurisdictions in Iowa, many of which have adopted the International Fire Code in local fire ordinances.

After the State Fire Marshal received the recommendation of the Fire Code Advisory Committee, he announced a public hearing to allow an opportunity for public input prior to the publication of the Notice of Intended Action. That hearing was held on August 4, 2006, and comments were received from various individuals, each of whom represented either a fire service organization or a labor organization. One comment was received objecting to the recommendation of the Committee to adopt the International Fire Code with applicable portions of the International Building Code. All other comments supported the Committee recommendation.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 13, 2006, as **ARC 5375B**. The rules proposed therein generally follow the recommendation received from the Fire Code Advisory Committee. The International Fire Code, 2006 edition, was proposed to be adopted by reference, along with selected sections of the International Building Code, 2006 edition, to establish the core fire safety requirements which will be applicable in Iowa. In several cases, rules established for specific occupancies were not included. The largest such exclusion was for licensed health care facilities, which are covered in 661—Chapter 205. Other occupancies which are covered under rules specific to the occupancy, other than by provisions of the International Fire Code and International Building Code, include small foster care homes, and bed and breakfast inns. Also proposed were requirements for jails and other correctional facilities already in operation prior to the date on which these rules will become effective. There currently are no such rules; the establishment of these requirements will provide a baseline for fire safety compliance for existing correctional facilities.

Two public hearings were held on the proposed rules, on October 12, 2006, and October 17, 2006, both of which were accessible over the Iowa Communications Network from several locations around the state.

All those who commented on the Notice of Intended Action supported the adoption of the International Fire Code. Several commenters offered specific recommendations to amend items contained in the International Fire Code. The amendments adopted herein differ from the proposed amendments as follows:

- Amendments are added to existing rule 661—5.3(17A) to clarify when plans are to be submitted for review to the Fire Marshal.
- Provisions related to fire safety in elevators are amended for clarity and to retain language recently adopted by the Fire Marshal for consistency with the related provisions adopted by the Elevator Safety Board.
- Selected sections contained in Chapter 1 of the International Fire Code are being retained in the adoption; each of these provisions clarifies the application of the provisions of the International Fire Code.

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- Section 307.3 of the International Fire Code is amended to clarify the authority to order the extinguishment of open burning when a hazard is created.

- Section 308.3.1.1 of the International Fire Code, which bars the use of propane-fired gas grills on certain balconies, is deleted.

- A reference to the International Mechanical Code in the section of the International Fire Code which relates to commercial kitchen exhaust hoods (609.1) is changed to a reference to the applicable standard of the National Fire Protection Association.

- An exception which provides that portable fire extinguishers which otherwise would not be required in certain buildings or facilities when quick response sprinklers are present is deleted.

- Provisions related to motor vehicle fuel dispensing facilities are deleted. These facilities are subject to the provisions of 661—Chapter 51.

- Provisions related to explosives and fireworks are deleted. Explosives are regulated under 661—Chapter 231.

- Language is added clarifying that provisions of the International Fire Code related to flammable liquids and liquefied petroleum gas do not apply to installations subject to 661—Chapter 51.

- Language is added clarifying that certain appendices are not included in the adoption of the International Fire Code.

- One additional section of the International Building Code having to do with the applicability of the code to existing buildings is adopted, with clarifying amendments, as rule 661—201.4(100).

These amendments are intended to implement Iowa Code chapter 100.

These amendments will become effective January 1, 2007. The following amendments are adopted.

ITEM 1. Amend **661—Chapter 5** as follows:

Amend the title as follows:

CHAPTER 5

FIRE MARSHAL ADMINISTRATION

Amend rule 661—5.3(17A) as follows:

Amend the introductory paragraph as follows:

661—5.3(17A,100) Building plan approval. ~~The Plans for the proposed construction of some certain new buildings or additions, alterations or changes to existing buildings need require the approval of the fire marshal and the fire marshal's approval may be obtained, if requested, on nonsingle family dwelling buildings. The procedure of this rule will apply unless inconsistent with a procedure in any of the rules which follow. Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the fire marshal for approval, unless the plans have been submitted to a local fire or building department for approval based upon compliance with the rules of the fire marshal or a local fire ordinance recognized in rule 661—201.4(100):~~

- Any educational building or facility serving kindergarten through twelfth grade,
- Any college or university building or facility,
- Any child care facility intended to serve seven or more children at one time,
- Any correctional facility, or
- Any gaming facility.

Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall

be submitted to the department of inspections and appeals and are not required to be submitted to the fire marshal:

- Adult day services, or
- Assisted living facilities.

Plans for initial construction or alterations, changes, additions, renovations or remodeling of any building or facility subject to the provisions of 661—Chapter 205 shall be submitted to the fire marshal.

Add the following **new** subrule:

5.3(6) For any construction project requiring approval of the state fire marshal, construction shall not begin until such approval has been received.

NOTE: It is recommended that approval of the fire marshal be obtained prior to the release of bid documents.

Rescind and reserve the following rules:

661—5.16(100)

661—5.35(100)

661—5.40(17A,80,100)

661—5.42(100)

661—5.50(100)

661—5.51(100)

661—5.52(100)

661—5.100(100) through 661—5.105(100)

661—5.230(100)

661—5.301(100)

661—5.607(100) through 661—5.613(100)

661—5.650(100) through 661—5.661(100)

661—5.663(100) through 661—5.667(100)

661—5.675(100)

661—5.749(100) through 661—5.759(100)

661—5.761(100) through 661—5.765(100)

661—5.775(100)

661—5.800(100) through 661—5.806(100)

ITEM 2. Adopt the following **new** chapter:

CHAPTER 201

GENERAL FIRE SAFETY REQUIREMENTS

661—201.1(100) Scope. The provisions of this chapter apply generally to buildings, structures, and facilities in which people congregate if the building, structure, or facility most recently began its current use on or after January 1, 2007, unless the building, structure, or facility is subject to provisions of 661—Chapter 202 or 661—Chapter 205. “Current use” includes the intended use of a building, structure, or facility under construction or awaiting required approval for that intended use.

A building, structure, or facility which most recently began its current use prior to January 1, 2007, is generally subject to the requirements in effect on the date on which the current continuous use of the building, structure, or facility began, unless either of the following conditions applies:

1. The fire marshal finds that any condition that is in violation of the provisions of this chapter, but that is permissible under the requirements in effect on the date on which the current continuous use of the building, structure, or facility began, creates an imminent threat to the safety of individuals or the public. If the fire marshal so finds, the fire marshal may order the correction of the condition found to create the hazard.

2. There were no fire safety requirements established by the fire marshal which applied to the building, structure, or facility at the time its current continuous use began. If no such requirements have been established by the fire marshal for the continued operation of such a building, structure, or

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facility, the provisions of this chapter shall apply as though the current continuous use of the building, structure, or facility began on or after January 1, 2007.

661—201.2(100) General provisions. The following publications or indicated portions thereof are hereby adopted by reference as general fire safety requirements and shall apply to all occupancies other than those to which conflicting provisions specifically apply or to which provisions specific to an occupancy explicitly exclude these provisions or any individual provision contained therein.

201.2(1) International Fire Code, 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

- a. Delete sections 101 and sections contained therein.
- b. Delete sections 102.1 and 102.2.
- c. Delete section 102.3 and insert in lieu thereof the following new section:

102.3 Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this chapter and any applicable building code. Subject to the approval of the fire marshal, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all the requirements of this chapter for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

- d. Delete sections 102.4, 102.7, and 102.8.
- e. Delete sections 103, 104, 105, 106, and 108 and sections therein.
- f. Delete section 109.3.
- NOTE: Section 109.3.1 is retained.
- g. Delete section 111.4.
- h. Delete section 307.2.
- i. Delete section 307.3 and insert in lieu thereof the following new section:

307.3 Extinguishment authority. The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

- j. Delete section 308.3.1.1.

NOTE: Any local jurisdiction that wishes to maintain the restrictions contained in section 308.3.1.1 may do so by including this section or equivalent language in a local fire ordinance.

- k. Delete section 607.1 and insert in lieu thereof the following new section:

607.1 Required. New elevators shall be provided with Phase I emergency recall operation and Phase II emergency in-car operation in accordance with ASME A17.1.

- l. Add the following new sections:

607.4 Sprinklers in Elevator Hoistways.

When a sprinkler is installed in a hoistway, the installation shall comply with rule 875—73.25(89A), adopted by the elevator safety board.

607.5 Elevator machine rooms.

Sprinklers are not required in elevator machine rooms, unless required by another provision of law, such as a local fire ordinance or an applicable federal regulation. When a sprin-

kler is installed in an elevator machine room, the installation shall comply with rule 875—73.25(89A).

Storage of any equipment or materials, other than equipment directly related to elevator operation, shall not be allowed in elevator machine rooms.

Each elevator machine room shall have a smoke detector and a heat detector, each of which shall be connected to the building's fire alarm system.

Security shall be maintained in elevator machine rooms in accordance with the provisions of the applicable standards adopted by the elevator safety board, as set forth in rule 875—72.1(89A). "Security" includes, but is not limited to, restriction of access to machine rooms to authorized personnel only and limitations on the duplication and distribution of keys to machine rooms. If none of the standards adopted in rule 875—72.1(89A) apply, then access to elevator machine rooms shall be limited to authorized personnel only.

- m. Delete section 609.1 and insert in lieu thereof the following new section:

609.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of NFPA 96, 2004 edition.

- n. Amend section 906.1 by deleting the exception.
- o. Delete Chapter 22, except for section 2211 and sections contained therein.
- p. Delete Chapter 33.
- q. Amend section 3401.1 by adding the following new exception:

EXCEPTION: This chapter shall not apply to any installation subject to the provisions of 661—Chapter 51.

- r. Amend section 3801.1 by adding the following exception:

EXCEPTION: This chapter shall not apply to any installation subject to the provisions of 661—Chapter 51.

- s. Delete "International Fuel Gas Code" wherever it appears and insert in lieu thereof "rule 661—51.100(101)."

- t. Delete "ICC Electrical Code" wherever it appears and insert in lieu thereof "rule 661—201.3(100)."

- u. Delete "International Plumbing Code" wherever it appears and insert in lieu thereof "641—Chapter 25."

NOTE: 641—Chapter 25 is the "State Plumbing Code," adopted by the department of public health.

- v. Adopt Appendices B, C, and D.

- w. Delete Appendices A, E, F, and G.

201.2(2) The following chapters and section of the International Building Code, 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041:

- a. Chapter 2.
- b. Chapter 3.
- c. Chapter 4.
- d. Chapter 5.
- e. Chapter 6.
- f. Chapter 7.
- g. Section 804.

661—201.3(100) Electrical installations. Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2005 edition.

661—201.4(100) Existing buildings or structures. Additions or alterations to any building or structure shall comply with the requirements of this chapter for new construction. Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any provisions of 661—Chapter 201. An existing building plus additions shall comply with the height and area provisions of Chapter 5 of the International

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Building Code, 2006 edition. Portions of the structure not altered and not affected by the alteration are not required to comply with the requirements established in 661—Chapter 201 for a new structure.

661—201.5(100) Recognition of local fire ordinances and enforcement. With the exception of a health care facility subject to the requirements of 661—Chapter 205, a building, structure, or facility shall be deemed to be in compliance with the requirements established in rules of the fire marshal if all of the following conditions are met:

1. The building, structure, or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference any edition of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; any edition of NFPA 1, Uniform Fire Code, published by the National Fire Protection Association; or the Uniform Fire Code, 1997 edition, published by the Western Fire Chiefs Association.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building, structure, or facility is subject to regular fire safety inspections.

4. The local jurisdiction has verified, during its most recent inspection, including any follow-up inspections, that the building, structure, or facility is in compliance with the local fire ordinance.

Notwithstanding any conflicting provisions contained in any code adopted by reference in this chapter or by any local fire ordinance, compliance with the provisions of 661—Chapter 51 is required at any location or facility in which flammable or combustible liquids are stored, handled, or used, other than incidental use.

These rules are intended to implement Iowa Code chapter 100.

ITEM 3. Adopt the following **new** chapter:

CHAPTER 202

REQUIREMENTS FOR SPECIFIC OCCUPANCIES

661—202.1(100) Scope. The provisions of this chapter apply solely to buildings, structures, and facilities currently being used in the specific ways described in this chapter. All other buildings, structures, and facilities in which people congregate are subject to the provisions of 661—Chapter 201 or 661—Chapter 205.

This rule is intended to implement Iowa Code chapter 100.

661—202.2(237) Facilities in which foster care is provided by agencies to fewer than six children. Any facility, including a single-family residence, within which foster care is provided by an agency to fewer than six children, shall meet each of the requirements established in this rule.

202.2(1) Battery-operated smoke detectors shall be installed in each sleeping room and on each floor of the home and shall be installed in compliance with the manufacturer's instructions.

202.2(2) Each exit and exit path shall remain clear and unobstructed at all times.

202.2(3) A five-pound 2A:10B:C fire extinguisher shall be installed in the primary caregiver's sleeping room. Additional extinguishers may be provided. Each extinguisher in the facility shall be inspected yearly by a third party in accordance with NFPA 10, Standard for Portable Fire Extinguishers, 2007 edition.

202.2(4) No combustible items shall be stored within a three-foot clearance of furnaces, hot water heaters, and electrical panels.

202.2(5) A carbon monoxide detector shall be installed on each floor of the residence. A detector shall be installed in proximity to any gas-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

202.2(6) If propane is used in the facility, a propane leak detector shall be installed in proximity to each propane-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

202.2(7) An evacuation plan shall be maintained, and fire drills shall be conducted at least once every other month.

202.2(8) If a child is sleeping in a basement room, then an egress window shall be provided in the room. "Egress window" means an existing operable window with a clear opening area of not less than 5.7 square feet, and with a minimum opening height and width of 24 inches and 20 inches, respectively.

This rule is intended to implement Iowa Code section 237.3, subsection 3.

661—202.3(137C) Bed and breakfast inns.

202.3(1) The following definitions apply to rule 661—202.3(137C):

"Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel; does not require reservations; and serves food only to overnight guests. Rule 661—202.3(137C) shall not apply to bed and breakfast homes. However, a bed and breakfast home shall have a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

"Bed and breakfast inn" means a building equipped, used, or advertised as or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished for hire to transient guests and which has nine or fewer guest rooms.

202.3(2) Appliances. Heating, cooking and gas and electrical equipment and appliances must conform with nationally recognized codes and standards and be installed and maintained in accordance with the manufacturer's recommendations. If the building has an operable solid fuel fireplace, all components must be cleaned and maintained in accordance with NFPA 211, 2006 edition.

202.3(3) Smoke detectors. Each bed and breakfast inn shall have an operable smoke detector in each guest room, at the top of each stairwell, and at intervals not to exceed 30 feet in each exit corridor. Detectors shall be installed and maintained in accordance with NFPA 72, 2007 edition.

- a. Existing facilities. In bed and breakfast inns which begin operation or are constructed or remodeled prior to February 1, 2002, required smoke detectors may be battery-operated.

- b. New facilities. Each bed and breakfast inn which begin operation or is constructed or remodeled on or after February 1, 2002, shall be equipped with a system of interconnected smoke detectors with detectors at the top of each stairwell and at intervals not to exceed 30 feet in each exit corridor. These smoke detectors shall receive primary power from the building's electrical wiring and shall include battery

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backup. Each guest room shall be equipped with a smoke detector which may be a single station detector.

202.3(4) Emergency lighting. Each bed and breakfast inn must be equipped with approved emergency lighting so located and directed in a manner that will illuminate the routes of travel from each guest-occupied room to the outside of the building.

202.3(5) Windows. Each bed and breakfast inn guest sleeping room must have at least one outside window that is openable without the use of tools or special knowledge. The window must be large enough that, when open and without breaking glass, it will permit the emergency egress of guests.

202.3(6) Exits. Each story that has one or more guest sleeping rooms must have two means of exit that are remote from each other and so arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency.

202.3(7) Exit door markings. Exit doors must be marked in accordance with the International Fire Code, 2006 edition, chapter 10.

202.3(8) Fire extinguishers. Fire extinguishers must be installed and maintained in accordance with NFPA 10, 2007 edition.

202.3(9) Smoking prohibited. Smoking is not permitted in any sleeping room, and rooms shall be posted with plainly visible signs so stating.

202.3(10) Additional prohibitions. Candles, lamps with power sources other than electricity and solid fuel fireplaces shall not be used in guest sleeping rooms.

202.3(11) Directions. Each bed and breakfast inn shall have clearly displayed in each guest sleeping room printed directions and a diagram for emergency evacuation procedures. These directions must include the primary route to the outside and how to use the emergency egress window in the event the primary route cannot be traversed.

This rule is intended to implement Iowa Code section 137C.35.

661—202.4(100) Existing jails and correctional facilities. Any jail, correctional facility, detention facility, holding facility, or prison which has operated continuously as such a facility since prior to January 1, 2007, shall comply with the provisions of NFPA 101, Life Safety Code, 1994 edition, chapter 15.

NOTE: Any jail, correctional facility, detention facility, holding facility, or prison which began continuous operation as such a facility on or after January 1, 2007, is subject to the provisions of 661—Chapter 201.

This rule is intended to implement Iowa Code chapter 100.

ITEM 4. Adopt the following **new** chapter:

CHAPTER 210 SMOKE DETECTORS

661—210.1(100) Definition. The following definition applies to rules 661—210.1(100) through 661—210.4(100):

“Approved” means acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in this chapter, shall be deemed acceptable to the state fire marshal.

661—210.2(100) General requirements.

210.2(1) Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205.

210.2(2) Any installation of wiring and equipment shall comply with NFPA 70, National Electrical Code, 2005 edition, and requirements established by the manufacturer of the equipment serviced by the wiring.

210.2(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended.

210.2(4) A combination system, such as a household fire warning system whose components may be used in whole or in part, in common with a nonfire emergency signaling system, such as a burglar alarm system or an intercom system, shall not be permitted or approved, except for one- or two-family dwellings.

210.2(5) All power supplies shall be sufficient to operate the smoke detector alarm for at least four continuous minutes.

210.2(6) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions subject to subrule 210.2(2).

b. New and replacement smoke detectors installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

210.2(7) The failure of any nonreliable or short-life component which renders the detector inoperative shall be readily apparent to the occupant of the sleeping unit without the need for a test. Each smoke detector shall detect abnormal quantities of smoke that may occur and shall properly operate in the normal environmental condition.

210.2(8) Equipment shall be installed, located and spaced in accordance with the manufacturer's recommendations.

210.2(9) Installed fire warning equipment shall be mounted so as to be supported independently of its attachment to wires.

210.2(10) All apparatus shall be restored to normal immediately after each alarm or test.

210.2(11) Location within dwelling units.

a. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

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b. Location in efficiency dwelling units and hotels. In efficiency dwelling units, in hotel suites and in hotel sleeping rooms, detectors shall be located on the ceiling or wall of the main room or hotel sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

661—210.3(100) Smoke detectors—notice and certification of installation.

210.3(1) Notice of installation. An owner of a rental residential building containing two or more units, who is required by law to install smoke detectors, shall notify the local fire department upon installation of required smoke detectors.

210.3(2) Certification—single-family dwelling units. A person who files for a homestead tax credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector(s) installed in accordance with subrule 210.2(6) and paragraph 210.2(11)“a,” or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

210.3(3) Reports to fire marshal. Each county or city assessor charged with the responsibility of accepting homestead tax credit applications shall obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit, and shall file a quarterly report with the fire marshal listing the name and address and stating whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

661—210.4(100) Smoke detectors—new and existing construction.

210.4(1) New construction. All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule 661—210.1(100) and rule 661—210.2(100).

210.4(2) Existing construction. All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in paragraph 210.2(11)“a.”

These rules are intended to implement Iowa Code section 100.18.

[Filed 11/2/06, effective 1/1/07]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5559B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 691.3, the Department of Public Safety hereby rescinds Chapter 12, “Criminalistics Laboratory,” and adopts a new Chapter 150, “Division of Criminal Investigation Criminalistics Laboratory,” Iowa Administrative Code.

Iowa Code chapter 691 creates a State Criminalistics Laboratory under the supervision of the Commissioner of Public Safety and authorizes the Commissioner to assign the laboratory to a division or bureau within the Department. Further, the Commissioner of Public Safety is required to adopt rules regarding the capabilities of the laboratory and procedures for submitting evidence to the laboratory for analysis.

The administrative rules for the Criminalistics Laboratory, contained in Iowa Administrative Code 661—Chapter 12, have become outdated. The rules adopted herein update those outdated provisions. In addition, the Department's rules generally are being renumbered, which is intended to make the rules more accessible to members of the public and to persons subject to the provisions of these rules. In coordination with that initiative, Chapter 12 is rescinded and replaced with a new Chapter 150.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 13, 2006, as **ARC 5374B**. A public hearing on these amendments was held on October 5, 2006. One comment was received, pointing out that proposed subrule 150.4(1) was problematic, in that it provided for submission of evidence to the laboratory only by a law enforcement agency. The Criminalistics Laboratory receives evidence from the Iowa Department of Corrections and from other criminal and juvenile justice agencies. Subrule 150.4(1) has been revised to reflect that the laboratory does receive evidence from criminal and juvenile justice agencies other than law enforcement agencies. Other than this change, the rules adopted herein are identical to those proposed in the Notice of Intended Action. Subrule 150.4(1) now reads as follows:

“**150.4(1)** Evidence may be submitted to the laboratory by:

“a. Any law enforcement agency in Iowa;

“b. The Iowa department of corrections;

“c. Any other criminal or juvenile justice agency, with the approval of the laboratory administrator; or

“d. Any other state agency, with the approval of the laboratory administrator.”

These amendments will become effective January 1, 2007.

These amendments are intended to implement Iowa Code chapter 691.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind Ch 12; adopt Ch 150] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5374B**, IAB 9/13/06.

[Filed 11/2/06, effective 1/1/07]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5558B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby rescinds Chapter 19, “Missing Person Information Clearinghouse,”

PUBLIC SAFETY DEPARTMENT[661](cont'd)

and adopts a new Chapter 89, "Missing Persons," Iowa Administrative Code.

The Iowa Department of Public Safety has provided services related to the identification and location of missing persons since 1985, pursuant to Iowa Code chapter 694. In the intervening years, knowledge regarding effective means of locating missing persons has increased, as has the potential of applying new technologies. The commercialization of the Internet has provided substantial opportunities to disseminate information faster and to a wider audience than was possible historically. The amendments adopted herein update current rules of the Iowa Missing Person Information Clearinghouse to recognize technological changes which have been implemented in Iowa.

Beginning in 1997, after the abduction and murder of nine-year-old Amber Hagerman in Texas, a plan for rapid dissemination of information when a child has been abducted was developed and put into operation in all 50 states. The AMBER Alert Program is a voluntary alliance among law enforcement, broadcasters, and others with the ability to disseminate information rapidly to mobilize community resources to locate children who have been abducted and are believed to be in danger. The Iowa AMBER Alert Program became operational in March 2003. Rules for the Iowa program are included in this chapter.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5393B**. A public hearing on these amendments was held on October 20, 2006. No comments were received on the proposed rules.

Since the Notice of Intended Action was published, clarifying language has been added to one of the criteria for issuing an AMBER Alert listed in rule 89.201(694). The rule reads as follows:

"661—89.201(694) Criteria. An AMBER alert shall be issued by Iowa state patrol communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of an AMBER alert are met:

"1. Law enforcement has confirmed that a person has been abducted, and an entry has been made into the Iowa Online Articles and Warrants (I.O.W.A.) System identifying the person as missing.

"2. The person who has been abducted is under the age of 18.

"3. Law enforcement believes the circumstances surrounding the abduction indicate that the child is in danger of serious bodily injury or death.

"4. There is enough descriptive information about the child, abductor, or suspect's vehicle to believe that an immediate broadcast alert will help.

"The criteria should be interpreted broadly so as to protect the safety of the abducted child and to maintain the integrity of the AMBER alert program and criteria."

These amendments will become effective January 1, 2007.

These amendments are intended to implement Iowa Code chapter 694.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind Ch 19; adopt Ch 89] is being omitted. With the exception of the change noted above, these

amendments are identical to those published under Notice as **ARC 5393B**, IAB 9/27/06.

[Filed 11/2/06, effective 1/1/07]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5553B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 300, "State Building Code—Administration," and Chapter 301, "State Building Code—General Provisions," Iowa Administrative Code.

Iowa Code section 103A.7 authorizes and requires the Building Code Commissioner to adopt the State Building Code, and Iowa Code chapter 103A provides for the adoption of a State Building Code. Generally, the State Building Code has applied to construction of state-owned buildings and facilities and buildings and facilities in local jurisdictions which have adopted the State Building Code by local ordinance in accordance with procedures established in Iowa Code section 103A.12. The State Building Code has also applied to some other types of buildings and facilities, such as elder group homes and gaming facilities, in the absence of a local building code. In addition, certain provisions of the State Building Code apply statewide, including requirements for accessibility of buildings and facilities to persons with disabilities if the buildings or facilities are available to the public; requirements for minimum plumbing facilities in places of public assembly, restaurants, pubs, and lounges; energy efficiency requirements; and requirements for factory-built structures, which include manufactured homes and modular buildings. Enforcement of the State Building Code by the Building Code Bureau has generally been limited to compliance reviews of construction plans.

2006 Iowa Acts, House File 2797, extends the applicability of the State Building Code to initial construction of buildings and facilities financed with moneys appropriated by the state, unless the construction is in a local jurisdiction which has a local building code in place and which enforces the local code through a system of plan reviews and inspections. 2006 Iowa Acts, House File 2797, also provides for on-site inspections of certain construction subject to the requirements of the State Building Code. Finally, 2006 Iowa Acts, Senate File 2272, provides that, in the absence of a local building code, school districts shall comply with the State Building Code in their construction projects if the district "uses local sales and services tax moneys for school infrastructure." According to the Iowa Department of Education, there are only eight school districts in the state to which this provision does not apply.

A major revision and update of the State Building Code was completed last year and became effective April 1, 2006. Normally, significant revisions of the State Building Code will not occur every year, but are anticipated every three years because the national codes which are adopted by reference in the State Building Code are on a three-year revision

PUBLIC SAFETY DEPARTMENT[661](cont'd)

cycle. However, in this case, two major considerations led to undertaking this revision at this time:

- The need to promptly address significant provisions regarding the applicability of the State Building Code which were adopted by the General Assembly in 2006.
- The issuance during 2006 of new editions of most of the codes adopted by reference in the State Building Code.

The amendments adopted herein update references to national codes adopted by reference, extend the scope of application of the State Building Code to construction projects covered by the language in new legislation, provide for inspections of certain projects subject to the State Building Code, and update the fee schedule for plan reviews undertaken by the Building Code Bureau.

These amendments were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5404B**. A public hearing on the proposed amendments was held on October 24, 2006. Numerous comments were received and several changes were made in the proposed rules in response to these comments. These changes include the addition of clarifying language to provisions for the submission of architectural documents and inspection requirements, clarifying language regarding the editions of standards adopted by reference related to elevator installations, a correction to the fee schedule making the fees more consistent than was provided for in the proposed rules, a provision regarding basement window wells in the International Residential Code, explicit deletion of appendices to the International Residential Code and other codes adopted by reference, and a provision concerning change of direction of cleanouts in the International Plumbing Code.

These amendments will become effective on January 1, 2007.

These amendments are intended to implement Iowa Code chapter 103A.

The following amendments are adopted.

ITEM 1. Amend **661—Chapter 300** as follows:

CHAPTER 300

STATE BUILDING CODE—ADMINISTRATION

661—300.1(103A) State building code promulgated. Iowa Code section 103A.7 gives assigns to the building code commissioner, with the approval of the building code advisory council, authority to promulgate the state building code, with the approval of the building code advisory council, except that adoption of the state historic building code requires the approval of the state historical society board of trustees, rather than the building code advisory council.

The state building code, as authorized by Iowa Code section 103A.7, includes 661—Chapters 16, 300, 301, 302, and 303. The state historic building code is set forth in 661—Chapter 350.

EXCEPTION: Prior to October 1, 2006, buildings or facilities subject to the state building code may be designed and constructed in compliance with 661—Chapter 16 as it existed on December 1, 2005. “Prior to October 1, 2006” means that required submissions have been made to the building code commissioner or a local building department by the close of business on September 30, 2006.

NOTE: Additional chapters will be promulgated and included in the state building code. All chapters of the state building code, other than 661—Chapter 16, will be numbered between 300 and 399. 661—Chapter 16 will be rescinded when all new chapters of the state building code have been adopted.

661—300.2(103A) Building code commissioner. No change.

661—300.3(103A) Building code advisory council. No change.

661—300.4(103A) Plan reviews.

300.4(1) Plans and specifications review. *Submissions of architectural technical documents, engineering documents, and plans and specifications to the building code commissioner are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional. “Responsible design professional” means a registered architect or licensed professional engineer who signs the documents submitted. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code and with sections 106.1 and 106.1.1 of the International Building Code, 2006 edition. In sections 106.1 and 106.1.1 of the International Building Code, 2006 edition, the word “permit” shall be replaced by “plan review.” Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.*

Electronic submission of all construction documents is strongly encouraged. Any person planning to submit documents electronically shall contact the bureau for instructions.

a. Architectural technical submissions, engineering documents, or plans and specifications for construction, renovation, or remodeling of all state-owned buildings or facilities, including additions to existing buildings, shall be submitted to and approved by the commissioner before construction is begun for review and comment. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner’s plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Such submittals shall be filed by the owner or an authorized agent, agency or the responsible design architect or engineer. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

b. Architectural technical submissions, engineering documents, and plans and specifications for the initial construction of any building or facility which will not, when completed, be wholly owned by the state or an agency of the state shall be submitted to the commissioner for review and comment, if the construction is financed in whole or in part with funds appropriated by the state and there is no local building code in effect in the local jurisdiction in which the construction is planned or, if there is such a local building code in effect, it is not enforced through a system which includes both plan reviews and inspections. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner’s plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents.

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ments for bidding. This paragraph shall apply only to construction projects which have not received from the building or facility owner final written approval of design development documents prior to January 1, 2007.

b c. Architectural technical submissions, engineering documents, ~~or~~ and plans and specifications for construction, renovation, or remodeling of all buildings or facilities, including additions to existing buildings, to which the state building code applies, other than state-owned buildings or facilities, those subject to paragraph "a" or "b," shall be submitted to and approved by the commissioner before construction is begun for review and comment, unless applicability of the state building code is based upon a local ordinance enacted pursuant to Iowa Code section 103A.12. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Such submittals shall be filed by the owner or an authorized agent or agency or the responsible design architect or engineer. Submittals shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

d. If applicability of the state building code is applies to a construction project based upon a local ordinance adopting the state building code, the submission shall be made to the

local jurisdiction, provided that the local jurisdiction has established a building department, unless the local jurisdiction requires submission to the building code commissioner. Review and approval of such documents by the building code commissioner shall be at the discretion of the building code commissioner based upon resources available.

NOTE: Preliminary or intermediate documents may be submitted for general discussion concerning compliance with the appropriate regulations if the documents are labeled "preliminary" or "not for construction" or are labeled with similar wording indicating that the documents are not being submitted for final approval. Such preliminary documents shall not exhibit the seal and signature.

300.4(2) Minimum review requirements. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code and with sections 106.1 and 106.1.1 of the International Building Code, 2003 edition. In sections 106.1 and 106.1.1 of the International Building Code, 2003 edition, the word "permit" shall be replaced by "plan review."

300.4(3) Copies and fees. See 661—Chapters 16, 302, and 303 for fees pertaining to factory-built structures, accessibility reviews, and energy conservation reviews.

a. No change.

b. The fees for plan reviews completed by the building code bureau shall be calculated as follows:

	Preliminary Plan Review Meeting (Optional)	Plan Review Fee	Plan Review Fee Including Optional Preliminary Plan Review Meeting
AREA IN SQUARE FEET	Cost	Cost	Cost
Up to 5,000	\$75	\$200	\$275
5,001-10,000	\$100	\$300	\$400
10,001-20,000	\$125	\$400	\$525
20,001-50,000	\$150	\$500	\$650
50,001-100,000	\$200	\$600	\$800
100,001-150,000	\$200	\$1,000	\$1,200
150,001-200,000	\$200	\$1,200	\$1,400
200,001-250,000	\$200	\$1,400	\$1,600
250,001-300,000	\$250	\$1,600	\$1,850
300,001-350,000	\$250	\$1,800	\$2,050
350,001-400,000	\$250	\$2,000	\$2,250
400,001-450,000	\$300	\$2,200	\$2,500
More than 450,000	\$300	\$2,400	\$2,700
Special Limited Reviews			Fee
Sprinkler Plan Review			\$100
Fire Alarm Review			\$100
Accessibility Review			\$30

Estimated Construction Costs	Calculation of Plan Review Fee
Up to and including \$1 million	\$.58 per thousand dollars or fraction thereof (minimum fee \$200)
Greater than \$1 million	\$580 for the first \$1 million plus \$.32 for each additional thousand dollars or fraction thereof
The plan review fees for fire suppression systems and fire alarm systems are separate fees and shall be calculated as follows:	

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Fire Protection System Costs	Plan Review Fee
<i>Fire suppression systems whose construction cost for installation is calculated to be up to and including \$20,000</i>	\$200
<i>Fire suppression systems whose construction cost is estimated to be greater than \$20,000</i>	\$400
<i>Fire alarm systems whose construction cost for installation is calculated to be up to and including \$20,000</i>	\$200
<i>Fire alarm systems whose construction cost is estimated to be greater than \$20,000</i>	\$400

Payment of the assigned fee shall accompany each plan when submitted for review. Payment may be made by money order, check or draft made payable to the Iowa Department of Public Safety—Building Code Bureau.

c. No change.

300.4(3) Preliminary meeting. *The responsible design professional for a project is strongly encouraged to schedule a preliminary meeting to discuss code compliance issues early in the design development phase. The responsible design professional should contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting.*

661—300.5(103A) Inspections.

300.5(1) *After March 1, 2007, any building or facility for which construction is subject to a plan review by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner or by a third party with whom the commissioner contracts to conduct inspections of buildings and facilities subject to the state building code. Fees for inspections completed by a third party under contract with the building code commissioner shall be paid by the owner of the building or facility directly to the third-party contractor and shall be in an amount specified in the contract. Inspection fees established in a contract with a third party may vary according to the valuation or complexity of the project, or the amount of time required to complete and report upon any required inspections, or the number of inspections required before compliance with the provisions of the state building code is achieved, but shall not vary according to the geographical location within the state of Iowa of the building or facility or according to the travel time required of an inspector.*

300.5(2) *After July 1, 2007, any construction involving any building or facility owned by the board of regents or by an institution subject to the authority of the board of regents shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner.*

300.5(3) *The fee schedule established in a contract or contracts for inspections conducted by a third party shall apply to inspections conducted by the commissioner or staff of the bureau or division at the direction of the commissioner, except that fees for inspections of buildings and facilities owned by the board of regents or by institutions under the control of the board of regents shall be established as provided in 2006 Iowa Acts, House File 2797, section 72, subsection 2. However, if inspections are conducted by the commissioner, or by staff of the bureau or division at the direction of the commissioner, the fees shall be paid by the owner directly to the bureau.*

661—300.5(103A) 661—300.6(103A) Local code enforcement. Provisions of the state building code applicable state-

wide or applicable in a local jurisdiction which has adopted the state building code by local ordinance may be enforced by the local jurisdiction.

Any local jurisdiction which adopts the state building code by local ordinance may further adopt provisions for the administration and enforcement of the building code by the local jurisdiction. These provisions may include administrative provisions contained in the codes adopted by reference as part of the state building code and may include other provisions at the discretion of the local jurisdiction.

300.5(1) 300.6(1) *Creation of department.* There may be established within the governmental subdivision a “building department” which shall be under the jurisdiction of the building official designated by the appointing authority. Within the state building code, including publications adopted by reference within the state building code, the terms “administrative authority,” “authority having jurisdiction,” and “authorized representative” shall mean the building official.

300.5(2) 300.6(2) *Powers and duties of building official.* The building official in those governmental subdivisions establishing a building department shall enforce all the provisions of ~~this~~ *any applicable building code* as prescribed by local law or ordinance and as outlined by Iowa Code section 103A.19.

300.5(3) 300.6(3) *Permits only.* Any governmental subdivision that has not established a building department but requires a permit to construct or an occupancy permit or both shall be known as the “issuing authority.”

These rules are intended to implement Iowa Code chapter 103A.

ITEM 2. Amend rule 661—301.1(103A) as follows:

661—301.1(103A) Scope and applicability. The provisions of this chapter apply generally to:

1. ~~buildings~~ *Buildings and facilities owned by the state of Iowa;*

2. *The initial construction of any building or facility not wholly owned by the state of Iowa or any department or agency of the state of Iowa which is financed in whole or in part with funds appropriated by the state, if there is no local building code in effect in the jurisdiction in which the construction is located or if there is a local building code in effect in the jurisdiction, and the local building code is not enforced through a system of plan reviews and inspections;*

3. *Buildings and facilities subject to the state building code, pursuant to a provision of state or federal law other than Iowa Code chapter 103A; and*

4. ~~to buildings~~ *Buildings and facilities in local jurisdictions which have adopted the state building code by local ordinance in accordance with the provisions of Iowa Code section 103A.12.*

ITEM 3. Amend rule **661—301.2(103A)** as follows:

Add the following new definitions in alphabetical order:

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"Appropriated by the state of Iowa" means funds which are included in a bill enacted by the Iowa general assembly and signed by the governor or which are appropriated in a provision of the Iowa Code.

"Bureau" means the building code bureau of the fire marshal division of the department of public safety.

"Construction cost" means the total cost of the work to the owner of all elements of the project designed or specified by the design professional including the cost at current market rates of labor and materials furnished by the owner and equipment designed, specified or specially provided by the design professional. Construction costs shall include the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for each construction manager's or contractor's overhead and profit.

"Division" means the fire marshal division of the department of public safety.

"State plumbing code" means the state plumbing code adopted by the Iowa department of public health, pursuant to Iowa Code section 135.11, subsection 5.

NOTE: As of January 1, 2007, the state plumbing code is found in 641—Chapter 25.

Amend the definition of "structure" as follows:

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution equipment of public utilities. ~~The word "structure"~~ "Structure" includes any part of a structure unless the context clearly requires a different meaning.

ITEM 4. Amend rule 661—301.3(103A) as follows:

661—301.3(103A) General provisions. The provisions of the International Building Code, 2003 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

Delete sections 101 through 115 except for sections 106.1, and 106.1.1, and 106.1.1.1.

Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

Delete chapter 29.

Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

Amend 3401.3 by deleting "International Private Sewage Disposal Code" and inserting in lieu thereof "567 Iowa Administrative Code Chapter 69."

Delete appendices A through J K.

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "ICC Electrical Code" and insert in lieu thereof "National Electrical Code, 2005 edition."

EXCEPTION: Prior to April 1, 2007, buildings or facilities subject to the state building code may be designed and constructed in compliance with the state building code as it read prior to January 1, 2007. "Prior to April 1, 2007" means that required submissions have been made to the building code commissioner or a local building department by the close of business on March 31, 2007.

301.3(1) and 301.3(2) No change.

ITEM 5. Amend rule 661—301.4(103A), introductory paragraph, as follows:

661—301.4(103A) Mechanical requirements. The provisions of the International Mechanical Code, 2003 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

ITEM 6. Amend subrule 301.6(1) as follows:

301.6(1) Plumbing installations which are not subject to the state plumbing code, 641—Chapter 25, and which are in buildings or facilities subject to the state building code ~~may~~ *shall* comply either with the state plumbing code or with the International Plumbing Code, 2003 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, except that any assembly occupancy, restaurant, pub or lounge constructed on or after January 1, 1991, shall comply with the provisions of subrule 301.6(2) regarding the provision of minimum plumbing facilities.

If the International Plumbing Code, 2006 edition, is used, section 708.3.3 is deleted and the following new section is inserted in lieu thereof:

708.3.3 Changes of direction. Cleanouts shall be installed at each fitting with a change of direction greater than 45 degrees (0.79 rad) in the building sewer, building drain and horizontal waste or soil lines. Where more than one change of direction occurs in a run of piping, only one cleanout shall be required for each 40 feet (12 192 mm) of developed length of the drainage piping.

ITEM 7. Amend rule 661—301.7(103A) as follows:

661—301.7(103A) Existing buildings.

301.7(1) Definition. "Existing building" means a building erected prior to ~~April 1, 2006~~ *January 1, 2007*, or for which plans have received approval from the building code bureau of the fire marshal division of the department of public safety prior to ~~April 1, 2006~~ *January 1, 2007*.

301.7(2) Adoption. The provisions of the International Existing Building Code, 2003 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for repair, alteration, change of occupancy, addition, and relocation of existing buildings, with the following amendments:

Delete chapter 1.

Delete section 605.

Delete section 806.

Delete section 912.8.

Delete ~~appendix A~~, chapters A1 through A5, and

Adopt appendix B, with the following amendments:

Delete section B101 and insert in lieu thereof the following new section:

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Any building or facility subject to this rule shall comply with the provisions of 661—Chapter 302.

Delete sections B102, B103, and B104.

Delete resource A.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2005 edition.”

ITEM 8. Amend rule 661—301.8(103A) as follows:

661—301.8(103A) Residential construction requirements. The provisions of the International Residential Code, 2003 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, with the following amendments:

Delete chapters 1 and 11.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete section R310.1 and insert in lieu thereof the following new section:

R310.1 Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above an adjacent permanent interior standing surface. The adjacent permanent interior standing surface shall be no less than 36 inches wide and 18 inches deep and no more than 24 inches high. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTION: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²).

Amend section R323.1.6 R324.1.6 by striking the words “Chapter 3 of the International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Add the following new sections:

P2500. Chapter 25 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P2600. Chapter 26 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P2700. Chapter 27 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P2800. Chapter 28 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P2900. Chapter 29 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P3000. Chapter 30 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P3100. Chapter 31 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

P3200. Chapter 32 shall not apply to construction of a residence if the residence is within the boundaries of an incorporated municipality or if the plumbing in the residence is connected to a municipal water system or a municipal wastewater treatment system.

~~EXCEPTION: A structure which is subject to this rule and which is an “existing building” as defined in subrule 301.7(1) shall be deemed to be in compliance with this rule if the structure meets the applicable provisions of the International Existing Building Code, 2003 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.~~

Delete appendices A through Q.

[Filed 11/2/06, effective 1/1/07]

[Published 11/22/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5560B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 300, “State Building Code—Administration,” Iowa Administrative Code.

2006 Iowa Acts, House File 2797, amended Iowa Code chapter 103A to extend the applicability of the State Building Code to certain buildings and facilities not previously covered and to establish an inspection function in the Building

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Code Bureau. The inspection function will supplement the plan review and approval process already in place in the Bureau. The Building Code Commissioner previously proposed amendments which include most of the provisions needed to implement the new statutory requirements. The proposed amendments were published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5404B**. These amendments, which are Adopted and Filed and published herein as **ARC 5553B**, will become effective on January 1, 2007.

The new statutory language requires the Building Code Commissioner to establish by administrative rule the qualifications of those who will conduct inspections for compliance with the State Building Code. At the time the Notice of Intended Action for the general updating of the State Building Code was submitted, the reasonable qualifications for inspectors had not been determined. Based upon research conducted in the intervening time, the Building Code Commissioner has determined that inspectors should be certified as commercial building inspectors by the International Code Council or should have achieved an equivalent level of qualification. The amendment adopted herein provides for this level of qualification.

This amendment is Adopted and Filed Without Notice because it is necessary that requirements for qualification of inspectors become effective on January 1, 2007, the same effective date as that of the other updates to the State Building Code.

Notice of Intended Action on this amendment is published herein as **ARC 5561B** to provide for an opportunity for public comment. A public hearing will be held on December 12, 2006, at 10 a.m. in the conference room at the office of the Fire Marshal Division, 401 SW 7th Street, Suite N, Des Moines, Iowa 50309.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impractical. The provision adopted here which establishes minimum requirements for inspectors enforcing the State Building Code need to be coordinated and in effect on the same date as the other updates to the State Building Code which become effective on January 1, 2007.

This amendment is intended to implement 2006 Iowa Acts, House File 2797, section 72, subsection 4.

This amendment will become effective on January 1, 2007.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Adopt the following new subrule:

300.5(4) Any person who performs a building code inspection on behalf of the building code commissioner shall have and maintain one of the following: (1) current certification as a commercial building inspector by the International Code Council, or (2) other equivalent certification approved by the building code commissioner. An employee of the department who performs an inspection on behalf of the building code commissioner shall, in addition, meet any requirements for the job class in which the employee is classified as established by the department of administrative services, pursuant to Iowa Code chapter 8A, subchapter IV, part 2.

EXCEPTION: An employee of the department who performs inspections on behalf of the building code commis-

sioner may perform such inspections for no more than six months prior to obtaining the required certification.

[Filed Without Notice 11/2/06, effective 1/1/07]

[Published 11/22/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/06.

ARC 5547B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103A.41, the Building Code Commissioner, with the approval of the State Historical Society Board of Trustees, hereby amends Chapter 350, "State Historic Building Code," Iowa Administrative Code.

Iowa Code section 103A.41 authorizes and requires the Building Code Commissioner, with the approval of the State Historical Society Board of Trustees, to adopt the State Historic Building Code. The State Historic Building Code provides an "alternative" building code for qualified historical buildings, which meet the requirements for inclusion in the National Register of Historic Places. The State Historic Building Code is based upon the International Existing Building Code, published by the International Code Council.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5402B**. The proposed amendment would update the basis of the State Historic Building Code from the 2003 edition to the 2006 edition of the International Existing Building Code. A public hearing on the proposed amendment was held on October 26, 2006. No comments were received on the proposed amendment, and the amendment adopted here is identical to that proposed in the Notice of Intended Action. This amendment is also coordinated with amendments being adopted to update the State Building Code.

This amendment will become effective January 1, 2007.

This amendment is intended to implement Iowa Code sections 103A.41 through 103A.45.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [350.1] is being omitted. This amendment is identical to that published under Notice as **ARC 5402B**, IAB 9/27/06.

[Filed 11/1/06, effective 1/1/07]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5543B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of 2006 Iowa Acts, Senate File 2394, section 6, the Building Code Commissioner hereby adopts a new Chapter 372, "Manufactured or Mobile Home Retailers, Manufacturers, and Distributors," Iowa Administrative Code.

2006 Iowa Acts, Senate File 2394, transfers responsibility for licensing of manufactured housing retailers, manufacturers, and distributors from the Department of Transportation to the Department of Public Safety, effective January 1, 2007. The rules adopted herein establish procedures and requirements for the licensing program under the direction of the Building Code Commissioner, as provided in the statute. Generally, the rules provide continuity with the previous administration of the licensing program by the Department of Transportation, although there are several significant changes. The licensure fee has been raised from \$35 to \$100 annually, as provided in the statute. The rules contain formal provisions for disciplinary action, as provided in the statute, and a requirement that a business with locations in multiple counties have a separate license for each county in which it is located.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 27, 2006, as **ARC 5403B**. A public hearing on these rules was held on October 26, 2006. Comments were received at the hearing from the Iowa Manufactured Housing Association, and several revisions have been made to the rules in response to those comments. The revisions are as follows:

1. A business will be required to obtain a separate license for each county in which it operates, as is currently required by the Department of Transportation. Proposed subrule 372.2(7) would have required a separate license for each separate location at which a business operates. Subrule 372.2(7) now reads as follows:

"372.2(7) Separate place of business. A separate retailer's license shall be obtained for each county in which the applicant maintains a place of business."

2. Civil penalties under this chapter will apply only to violations of this chapter or Iowa Code chapter 103A related to manufacture of manufactured or mobile homes, rather than to any provisions of the statute or these rules. This revision to subrule 372.5(3) is consistent with the statute. The subrule now reads as follows:

"372.5(3) The commissioner may impose a civil penalty for any violation of this chapter or of Iowa Code chapter 103A relating to the manufacture of a manufactured or mobile home. A civil penalty may be imposed in addition to a denial of the issuance or renewal of a license, a suspension of a license, or a revocation of a license. A civil penalty shall not be imposed in lieu of a denial of the issuance or renewal of a license or of a revocation of a license. A civil penalty shall not exceed \$1,000 for each offense. Each violation involving a separate manufactured or mobile home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter or Iowa Code chapter 103A, constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed \$1 million."

3. The effective date of requirements for manufactured homes established by the U.S. Department of Housing and Urban Development has been corrected from July 1, 1976, to June 15, 1976, and is included in paragraph 372.6(1)"a." Language has also been revised to further clarify the requirements. Paragraph 372.6(1)"a" now reads as follows:

"a. A manufactured home which was manufactured on or after June 15, 1976, and which is owned by a retailer shall not be offered for sale unless the retailer has a properly assigned manufacturer's certificate of origin or a certificate of title, a seal from the United States Department of Housing and Urban Development properly attached, a data plate attached by the manufacturer, and a manufacturer's installation manual for the home, if the manual is available to the retailer. A retailer shall not sell a manufactured or mobile home owned by the retailer without delivering to the transferee a manufacturer's certificate of origin or a certificate of title duly assigned to the transferee."

4. A reference to franchises in paragraph 372.8(4)"b" is not included, since Iowa's franchising law does not apply to this industry. The paragraph now reads as follows:

"b. Issuance of a contract with a person in this state to sell new manufactured or mobile homes at retail."

These rules are intended to implement Iowa Code chapter 103A as amended by 2006 Iowa Acts, Senate File 2394.

These rules will become effective January 1, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 372] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 5403B**, IAB 9/27/06.

[Filed 11/2/06, effective 1/1/07]

[Published 11/22/06]

[For replacement pages for IAC, see IAC Supplement 11/22/06.]

ARC 5544B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX; No. 4, p. 209, on August 16, 2006, as **ARC 5325B**.

Item 1 amends rule 701—40.1(422) to reference new rules 701—40.67(422) and 701—40.68(422) in order to update a cross reference.

Item 2 adopts new rule 701—40.67(422) to provide for a deduction of \$2,000 for individual income tax for the cost of a clean fuel motor vehicle that is eligible for the alternative motor vehicle credit under Section 30B of the Internal Revenue Code for such motor vehicle.

Item 3 adopts new rule 701—40.68(422) to provide for an exclusion from income for Iowa individual income tax for grants received under the injured veterans grant program administered by the Iowa Department of Veterans Affairs.

REVENUE DEPARTMENT[701](cont'd)

This rule also provides for a deduction for individual income tax for amounts contributed to the Iowa Department of Veterans Affairs for the purpose of providing grants under the injured veterans grant program.

Item 4 amends rule 701—41.5(422) by adding new subrules to provide that itemized deductions are not allowed for individual income tax when deductions were previously claimed for unreimbursed expenses relating to a human organ transplant and when deductions were previously claimed for amounts contributed to the injured veterans grant program. A new subrule was also added to provide that itemized deductions are not allowed for individual income tax for contributions made to a school tuition organization when a taxpayer claimed a school tuition organization tax credit for this same contribution.

Item 5 amends subrule 42.2(11) to include federal revisions made in 2005 in the research activities credit for individual income tax.

Item 6 amends subrules 52.7(3) and 52.7(5) to include federal revisions made in 2005 in the research activities credit for corporation income tax.

Since the Notice was published, an amendment to the implementation clause for rule 701—41.5(422) has been added to Item 4.

These amendments will become effective December 27, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2005 Iowa Acts, House File 801; 2006 Iowa Acts, House File 2461; and 2006 Iowa Acts, Senate Files 2312 and 2409.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 40, 41, 42, 52] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5325B**, IAB 8/16/06.

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